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ORGANIZATION OF THE REVOLUTIONARY MOVEMENT
IN NEW YORK STATE, 1775-77

by

Bernard Mason

Submitted in partial fulfillment
of the requirements for the degree of
Doctor of Philosophy
in the Faculty of Political Science
Columbia University

1958



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ABSTRACT

ORGANIZATION OF THE REVOLUTIONARY MOVEMENT
IN NEW YORK STATE, 1775-77

Bernard Mason

The British ministry at the opening of 1775 viewed the political situation in New York with equanimity, but subsequent events shattered its complacency. The inception of revolutionary government in the province came as a logical consequence of heightening opposition to the crown. Reduced to impotence, officialdom could do nothing but stand aside and watch the revolutionary organization assume the powers of government.

When the prospect of conciliation grew more improbable in the latter half of 1775, the Provincial Congress wavered uncertainly in its resistance to the crown. Notwithstanding this vacillation there was no general loyalist reaction. The most widespread support for the Tories came from Queens and Richmond Counties which had consistently favored the royal government. Led by Governor Tryon and William Smith, the administration sought to detach New York from the Continental Congress but these maneuvers failed. Indeed in the elections for the last royal assembly in early 1776 the Whigs won an overwhelming victory. Despite its halting steps the Provincial Congress carried the people farther down the road to revolution.

Closely linked with the question of a new government was the problem of independence. Numerous letters in the newspapers discussed both problems in detail and generally indicated that public opinion was

in advance of Congress in desiring the separation.

The hesitation of the Whig leaders of New York cannot be ascribed to any single factor. Tradition and past ties with Britain exerted a braking influence. There was apprehension over the cost of independence in blood and treasure. There was uncertainty about internal political stability. There was fear of defeat and the penalties for treason. Since the peculiar geographic position of New York made it probable that the colony might be invaded simultaneously from the south and north, the Whig moderates and conservatives felt no overpowering urge to place the noose around their own necks.

Acting upon a popular mandate, the Fourth Provincial Congress transformed itself in July, 1776, into a constitutional convention. Its constitutional labors stretched out over the next eight months largely because the conservatives delayed the Convention's labors. Since the conservatives feared radical reformism would sweep the Convention, they toiled arduously and successfully to prevent a radical victory. The radicals failed to win a bill of rights which had seemed to be within their grasp in July, 1776.

Contrary to the generally accepted belief, Jay did not draw up the only draft of the constitution. There were at least four other committee drafts. On the whole these committee versions were more radical than the final product. They contained provisions for annual assembly elections, secret balloting, extension of the suffrage in assembly elections to all those paying either county or state taxes, senatorial and gubernatorial suffrage for the 140 freeholders, a

governor without veto power, a governor assisted by a council in nominating state officials. Most of these innovations did not survive the onslaught from the Convention floor. The Convention presented the people with a revolutionary constitution, albeit a conservative one.

PREFACE

In the following pages I have sought to trace the organization of the revolutionary movement in New York and describe its culmination in two major events, the Declaration of Independence and the drafting of the Constitution of 1777. These two occurrences represented the fruition of two interrelated trends which preoccupied many Whigs in the spring of 1776.

New York has held an ambivalent position in the history of the American Revolution. A revolutionary party did commit the colony to independence, but the presence of thousands of loyalists lent credence to the idea that the revolutionaries represented a minority. Moreover, the vacillations of the Whig political leaders in 1775-76 gave birth to doubts among their continental brethren of New York's loyalty to the patriot cause. However, the evidence compiled here will demonstrate, I think, the inaccuracy of the foregoing interpretation. Naturally, I owe much to Carl L. Becker's History of Political Parties in the Province of New York, 1760-76, a study which remains fundamental to the subject.

I would enter at least one caveat in relation to terminology in order to avoid confusing an easily confused subject. I have used the words radical, moderate and conservative in a special sense. In one context the terms signify an individual's attitude toward the question of independence. If a man advocated uncompromising resistance to Britain and separation from her between January and July, 1776, I

have characterized him as "radical." On other questions the radicals might be conservative. Hugh Hughes and Isaac Sears would qualify as radicals under this definition. The moderates resisted on the one hand, but kept a sharp vigil for avenues of compromise. Nevertheless, they sponsored policies that steadily widened the gap between New York and Britain. On the question of independence, publicly they favored delay, but privately conceded the necessity of the separation. In this middle of the road category I have placed John Jay and Robert R. Livingston. The conservatives opposed British measures, but also opposed vigorous resistance to those measures. They might have accepted the Lord North conciliation proposals of 1775 or the Howe olive branch of 1776. The conservatives rejected independence as a solution of the colonists' difficulties. James Duane and Isaac Roosevelt would fall into this category.

In chapter six I have employed the words radical and conservative in a different context. Here they denote attitudes toward the political content of the Constitution of 1777. The conservatives seek to preserve the political status quo ante 1775. In this situation Jay and Livingston are conservatives. The radicals work to liberalize the prior system, urging a broader suffrage, for example. Matthew Adgate and Robert Harpur now bear the label radical.

Therefore, the terms "radical" and "conservative" do not refer to a man's political philosophy, but only to the limited areas indicated. The radical on independence could be a conservative on the question who should possess the right to vote or on the use of the written ballot.

Finally, although I have used the newspapers as indicators of trends in public opinion, I do not regard them as instruments of accurate measurement. Unfortunately, the historian lacks any means for measuring opinion in this period and consequently must depend upon the best available sources. In this case the newspapers have served that function.

I am deeply indebted to Professors Richard B. Morris and Harold C. Syrett of Columbia University for their critical reading of the manuscript and extremely helpful advice. Without their guidance this monograph would have more than the customary share of misconceptions and errors found in an author's entry into historical writing. I am happy to acknowledge the invaluable assistance of the staffs of the several institutions hereafter cited.

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LIST OF ABBREVIATIONS

CUL	Columbia University Library
NYHS	New-York Historical Society
NYPL	New York Public Library
NYSL	New York State Library

CHAPTER I

ROYAL INFLUENCE IN NEW YORK

The halting progress of revolutionary organization in the province of New York, 1774-76, was partly the consequence of royal authority. Although critics in neighboring colonies often harshly criticized the Yorkers, some critics permitted their ardor to override their knowledge of the complex state of affairs in that colony, a state of affairs which compelled the revolutionaries to tread warily. The British government sought to block every move of the Whigs and its influence in the colony was widespread. The province had special significance for the British because of both political and military considerations. The continued attachment of New York to the crown would split the continental union and multiply the pitfalls in the path of those who persisted in opposition. Since 1763 the city had been the headquarters of His Majesty's Forces in North America, a strategic center from which to direct the assembling and transposition of troops. Moreover, in critical days to come, it would afford a secure base from which to launch an offensive to split the rebels, or from which large scale operations could be directed against the whole continental seacoast.¹

1. Edmund Burke to James DeLancey, 14 March 1775. Ross J. S. Hoffman, Edmund Burke, New York Agent with His Letters to the New York Assembly and Intimate Correspondence with Charles O'Hara 1761-76, pp. 262-63; General Gage to Lord Dartmouth, 20 August 1775, Dartmouth to Gage,

One source of royal authority was the considerable administrative machine which permeated the province.¹ Some of these officials had imperial responsibilities, some had primarily local duties, while others combined both. At the head of the administration stood the governor whose power in varying degrees reached down through the council, assembly, courts, sheriffs, mayors, county and town officials. In another area functioned the customs, Indian and post office departments. Standing behind civil officialdom, more and more obtrusively by 1775, loomed the armed forces under the control of the commander-in-chief. Despite the imposing outlines of the machine, no one would contend that a strong and vocal opposition did not exist. Within the provincial government, however, only a minority would join the revolutionaries. The South Carolina General Committee illustrated the comprehension of these relationships when it wrote to the New York Committee:

We are not ignorant of that crowd of placemen, of contractors, of officers, and needy dependents upon the Crown, who are constantly employed to frustrate your measures. We know the dangerous tendency of being made the Headquarters of America for many years.²

15 April, 2 August 1775, Clarence E. Carter, ed., The Correspondence of General Thomas Gage with the Secretaries of State and with the War Office and the Treasury, 1763-75, I, 413-14, II, 194, 205 (hereafter cited as Gage Corr.). See also the discussion of the importance of the commander-in-chief by C. E. Carter, "The Office of the Commander in Chief," in Richard B. Morris, ed., The Era of the American Revolution, pp. 170-213 (hereafter cited as Era).

1. See the civil list reported by Governor Tryon, Edmund B. O'Callaghan, ed., Documentary History of the State of New York, I, 521-22 (hereafter cited as NYDH). Extensive as the list is, it omits such county and town officials as county judges, coroners, sheriffs, county clerks, justices of the peace, mayors.

2. Letter dated 1 March 1775, New York Journal, 6 April 1775 (hereafter

More particularly, a point of complaint arose over the administration's influence in the assembly which represented the freeholders and freemen. An anonymous New York correspondent of the Pennsylvania Journal, after listing the elected members of the legislature, their occupations, their social connections and in many cases their crown offices held during pleasure, asked:

First, Whether the great number of crown officers, or their near relations in the Assembly, is not a proof either of our extreme negligence of our Liberties, or of the vigilance of government for biasing our Members?

Second, Whether though the highest honour is due to the integrity of so many gentlemen, who have nobly risked their offices by their fidelity to the country, it is not nevertheless a scandal to the province, that we have as yet no place bill to exclude such from the House of Assembly as after an election render themselves dependent upon the Crown for offices held during pleasure, and Third, Whether from the arbitrary project of the late Parliament for introducing a council into the Massachusetts Bay, at the pleasure of the Crown, it does not appear to be an indispensable duty firmly to insist upon a law utterly to exclude the dangerous influence of his Majesty's Council, at all elections for representatives of the People.¹

The unappropriated lands of the colony gave to the British a potentially persuasive instrument, especially in a tense period, since the possession of land seems to have been an almost universal aspiration among both the lesser and greater propertied classes. Issuance of

cited as N.Y.J.); Peter Force, ed., American Archives, 4th Ser., II, 1-2. In the pamphlet The Farmer Refuted Hamilton says, "How great an influence, places, pensions and honours have upon the minds of men, we may easily discover by contrasting the former, with present conduct of some among ourselves" (p. 57).

1. Pennsylvania Journal, 22 February 1775 (hereafter cited as Pa. Jour.). Perhaps some of the radical members of the New York City Committee of Sixty sent the letter to the Philadelphia Committee.

2. For British use of this device see below, pp. 6-7.

the letters patent depended upon approval of the governor and council who tended to favor the supporters of administration. Those who lacked the requisite political or social connections had to resort to other methods which could entail partial loss of the grant. "Rough Hower" referred to this practice when he wrote that one "could not obtain a patent, except through the interest of...[the government] favorites, and that often at the expense of part, if not the half of his right."¹ In the case of the Vermont lands some men even managed to secure patents from the New Hampshire government. Henry Franklin, Frederick and William Rhinelanders inserted an advertisement in the newspapers warning that they had obtained recently a New York grant of 63,000 acres in Charlotte County on the east side of Lake Champlain but that they would share it with those who held these lands under a prior New Hampshire patent. The new patentees demanded the sharing of all costs and the procurement of a New York title. Among those named as holding from New Hampshire were Isaac Sears, Isaac Sears, Jr., William Smith, William Smith, Jr., Philip French, Philip French, Jr., David Matthews, Cornelius Low, Jr., Benjamin Flagge, John Blagge,² Peter Ten Eyck, Andrew Ten Eyck.

Although the home government sought to revise the system, the governor and council insisted on perpetuating it by granting land to those who would uphold the royal prerogative. From April, 1775 to

1. "Rough Hower," N.Y.J., 24 January 1784; Virginia D. Harrington, The New York Merchant on the Eve of the Revolution, pp. 140-141, 142.

2. New York Packet, 7 March 1776 (hereafter cited as N.Y.P.).

July, 1776 Colden and Tryon approved grants totaling 423,064 acres, of which 328,216 acres lay in Vermont. More than 64 percent of the total, 273,121 acres, went to prominent Tories: the Rhinelanders, Franklins, Apthorps, Edmund Fanning, the Papaljes, Robert Rogers and¹ William Smith, agent for Governor Martin of North Carolina.

The merchants presented another possible channel for the diffusion of royal influence. Many Yorkers had strong commercial ties with the mother country; either they relied on British credit for their operations or they traded wholly within the empire. Still others functioned as factors for English houses or sold goods on a commission basis for British correspondents. A small group profited as contractors² for the British military and naval establishment. In addition to these, the Indian traders, under the supervision of the government, had long conducted a profitable business. Economic considerations, however, by no means predominated in the web of bonds with Britain. A number of merchants had emigrated only recently to America or had maintained close ties back home. Another group of merchants served on the council or held office on the local level in Albany and the capital. Finally, intermarriage between merchants and officials drew

1. Calendar of New York Colonial Manuscripts Indorsed Land Papers in the Office of the Secretary of State of New York, pp. 625ff; Harrington, op. cit., pp. 142-43; Irving Mark, Agrarian Conflicts in New York, 1711-75, p. 48, n. 137 and 138.

2. Barrack Master General Brigadier General James Robertson told some merchants he had spent £260,000 in New York. Presumably this covered the period as B.M.G., 1765-75. William H. W. Sabine, ed., Historical Memoirs, 1763-76 of William Smith, pp. 219-220; Gage Corr., II, 310.

1
a number of leading families into the circle of government supporters.

When colonial affairs deteriorated critically in 1773-74, the British ministry turned to good account its position in New York. Employing a combination of persuasion and pressure, the ministry sought to mobilize enough strength to split New York away from the continental association. Certainly the landholding aristocracy and speculators, involved in major boundary disputes with New Hampshire, Massachusetts, and New Jersey, would have welcomed a Privy Council decision in their favor. Lord Dartmouth, Secretary of State for the Colonies, intimated the rewards awaiting the faithful when he discussed the state of the Vermont controversy with Lieutenant Governor Colden at the close of 1774:

Their [i.e., the Yorkers'] Pretensions will meet with every Countenance and Support that can be shewn consistent with Justice; for I can with Truth say that the Conduct of that Province in general...has been such as justly intitles its well disposed and peaceable Inhabitants to His Majesty's particular Favor and Indulgence.²

Colden himself pressed the Secretary to conduct policy along these lines, expressing the hope that he "will encourage this good and singular disposition by such instances of indulgence and favor, as shall be wisely calculated to render most evident the good effects of the conduct of this Province."³

1. Harrington, op. cit., pp. 350-51. See also the marriage relations of the council listed in Pa. Jour., 22 February 1775.

2. Dartmouth to Colden, 10 December 1774, Edmund R. O'Callaghan, ed., Documents Relative to the Colonial History of the State of New York, VIII, 514 (hereafter cited as NYCD).

3. Colden to Dartmouth, 1 February 1775, ibid., VIII, 532. Those in high places in London assured the "Friends of Government" in New York

Tryon's instructions of May, 1775, containing several important proffers, bore out the continuance of these tactics. Dartmouth offered a blanket assurance to give "every reasonable satisfaction" to His Majesty's faithful subjects in New York. A second example of the royal indulgence and favor manifested itself in conditional approval of the Totten and Crossfield Indian purchase. This tract comprised an extremely large area in the Adirondacks and involved many of the colony's leading personages. Royal confirmation of the transaction hinged upon New York's repudiation of the Continental Association. The Colonial Secretary had no objections to the draft of the new charter for Kings College and did not anticipate difficulties for it in the Privy Council. In addition the instructions held out the prospect of the Council's assent to charters of incorporation for the Dutch Reformed and Presbyterian Churches.

The British did not neglect the power of the purse, although

of the royal esteem for that colony: "'Pursue the same path, and your province will be honoured with every mark of distinction from this country. His Majesty is already disposed to grant you every honourable favour that can be proposed.'" Dr. Samuel Auchmuty to Captain Montresor, 19 April 1775, quoting from a letter to himself from London, Pa. Jour., 31 May 1775.

1. Major Philip Skene and Rev. John Vardill urged Dartmouth to grant the charters since it would lead the Presbyterians "to cooperate more zealously in support of government." Skene and Vardill to Dartmouth, March 1775, Historical Manuscripts Commission, Fourteenth Report, Appendix Part 10, p. 284 (hereafter cited as Hist. Mss. Com.). Dartmouth to Tryon, 4 May 1775, NYCD, VIII, 573. See William Smith's comment, Historical Memoirs of the Province of New York, V, 28 June 1775. William Smith Papers, NYPL (hereafter cited as Memoirs).

no evidence of open bribery has come to light. Nonetheless, the Whigs circulated charges that Dartmouth had large sums to expend in America. Some "Citizens of New York" published a broadside in November, 1774¹ warning the people that the ministry intended to buy up the newspaper printers. Early in 1775 the press carried an extract of a letter from London which asserted that "it is currently said here and with much confidence, that a good deal of public Money, has been put in the Hands of a Mr. ---- one of the----- and some of your other great Men, in order to buy their Influence in Favour of the Ministerial Measures...."²

By far the most sensational allegation of bribery came to hand in May, so sensational that the New York Committee of One Hundred tried to suppress it but the Pennsylvania Journal of May 17 reproduced an extract of a London letter which asserted that several members of the New York assembly had pocketed bribes of more than £1000 each for their votes in January, 1775. The letter writer went on to allege that a group of DeLancey party leaders would be rewarded with places of "honor, profit and pensions."

The source of this information seems to have been a letter from London alderman William Lee to Samuel Adams, who, in turn, edited the letter for publication. Lee charged:

1. To the Public by "Citizens of New York," 16 November 1774, Broad-sides, NYPL.

2. N.Y.J., 9 February 1775. A similar warning appeared in ibid., 16 March 1775. This letter seems to have been from Thomas Lane, Chairman of the London Merchants to Francis Lewis. See the comment of William Smith, Sabine, op. cit., p. 213.

the Ministry now openly boast of their having last year sent large sums to New York to bribe the Members of that Assembly and the names of Delancey, Phillips and Rappalje are frequently mentioned as having each of them received one thousand guineas for their conduct in the Assembly respecting the late Continental Congress and for refusing to send Delegates to the May Congress.

Lee set forth a number of other grave imputations. For example, he alleged that Lieutenant-Governor Colden would resign with a pension, that councillor John Watts would succeed Colden, that Watts' son would take his father's place on the governor's council. Lastly, Lee declared that Skene would receive a land-grant of 120,000 acres and a commission as Governor of Crown Point and Ticonderoga.

Later events substantiated some of the allegations. Skene did secure both the office and the land. Moreover, the Delancey party did move, as Lee indicated, to petition king and Parliament as a subter-¹ fuge to head off approval of the Continental Congress by the assembly.

A passage in Smith's Memoirs tends to give a shadow, but no more, of credibility to the bribery charges. Smith records a meeting of the key Delancey faction leaders on January 9 at which they dis-

1. There were two letters, 4 and 10 April 1775, Bancroft Transcripts: Samuel Adams Papers, NYPL. Lee apparently prepared the first one for publication, signing it "L.L." The New York copy of the extract, which Adams probably sent to a number of committees, is printed in the Calendar of Historical Manuscripts Relating to the War of the Revolution, in the Office of the Secretary of State, I, 1-2 (hereafter cited as Cal. Hist. Mss.).

Adams, prior to receipt of the Lee letter, believed the assembly to be corrupt. Adams to Arthur Lee, 4 March 1775. Arthur Lee had warned Adams also that the North ministry was spending lavishly and offering concessions in order to maintain New York's allegiance to the crown. Arthur Lee to Adams, 2, 4 March 1775, Bancroft Transcripts: Samuel Adams Papers, NYPL.

On Skene see Gage Corr., I, 354. II, 158; Hist. Mss. Com., p. 269.

cussed the probable division of the assembly on the question of approving the acts of the First Continental Congress. The leaders agreed that the administration could count on eleven votes against approval, but they calculated Whig strength at fourteen votes. When the January vote came, it went 11-10 in favor of the DeLancey faction. Later votes on the colonial dispute ran 15-9, 15-10 and 17-9 for the government's position. The DeLancey leaders' gross under-estimation of Tory strength suggests that the administration applied powerful pressure to¹ change some votes.

Although nothing in the preceding material proves the Whig charges of bribery, it is true that some men did receive special inducements. The Colonial Department notified Drs. Myles Cooper and Thomas B. Chandler, able Tory penmen, that the Treasury would pay them² £200 per annum "from a consideration of your merit and services." James Rivington, printer of Rivington's New-York Gazetteer, having won favor in the ministry's eyes, became the recipient of £100 per year³ and the title of His Majesty's Printer within the Province of New York.

Rivington had earned his £100 salary. Although he had not begun publication of his newspaper until 1773, he had surpassed his

1. Becker, op. cit., p. 176; Sabine, op. cit., p. 208.

2. Secretary Pownall to Drs. Cooper and Chandler, 5 April 1775, NYCD, VIII, 569.

3. Sidney I. Pomerantz, "The Patriot Newspaper and the American Revolution," Morris, Era, p. 316. That this was an unusual appointment may be seen from the source of the money. The Lords Commissioners of the Treasury were to pay him "out of such fund as their Lordships shall think proper." NYCD, VIII, 568.

competitors, Gaine and Holt, and circulated his Gazetteer through many
 of the other colonies.¹ As political differences multiplied, Riving-
 ton's paper emerged as the bulwark of established government. Equally²
 important, the printer functioned as a publisher of Tory tracts.³ It
 is not surprising that the Whigs detested him. Bitter denunciation
 of his press spread through the colonies from South Carolina to Rhode
 Island, taxing him with the publication of "glaring falsehoods."

One of his stories brought him a reprimand from the New York
 City Committee of Observation in March, 1775. Sponsoring the most
 debatable recommendation of the day, participation by the province of
 New York in the Second Continental Congress, the Whigs maneuvered to
 win popular approval of their proposal. On March 2, Rivington's
Gazetteer carried the item below without any qualification:

Last Monday the committee of observation met; it was pro-
 posed that they should nominate delegates, to the conti-
 nental congress, for the approbation of the city and county,
 but being opposed, the final resolution of the committee
 was deferred until the next meeting.

To the reader the story bore the implication that those who advocated
 sending delegates to Congress comprised only a minority of the Com-
 mittee. Fearing an adverse reaction to the report, the Committee
 formally repudiated it as false and voted to have two members pay
 Rivington a call in order to learn its origin. The delegation apprised

1. Pomerantz, op. cit., p. 315.

2. In 1775 Rivington printed approximately twenty-eight political tracts,
 most of which were Tory. Charles R. Hildeburn, Sketches of Printers
and Printing in Colonial New York, p. 117.

3. Quoted in Pomerantz, op. cit., p. 316.

their colleagues that Rivington had stated the source of his news as "common report," and under pressure, had agreed to print a retraction. Having heard the presentment, the Committee resolved then that Rivington should not present "common report" to the public as news.¹

After the startling news of Lexington and Concord had aroused the city April 23, the Tory printer abruptly revised the tone of his paper. The numerous letters from Tories vanished, the partisan news reporting diminished; however, the reformation did not carry so far that the publisher printed the pseudonymous political letters of his antagonists.² Although Rivington in the issue of May 4 denied any intent to injure American liberty, six days later he had to flee from a group of angry Whigs to a British vessel in the harbor. By promising to reform and promising not to violate the Association, Rivington won the permission of the Provincial Congress to continue publishing.³

Shortly thereafter the Gazetteer showed signs of trimming

1. Rivington's New-York Gazetteer, 2 March 1775 (hereafter cited as Riv. Gaz.); New York Gazette and Weekly Mercury, 20 March 1775 (hereafter cited as N.Y.G.). Rivington challenged the accuracy of the delegation's summary of their interview; he asserted he told the committeemen the news was "credited" not "common report." Riv. Gaz., 16 March 1775.

2. Ibid., 27 April, 4, 11, 18, 25 May 1775.

3. Pomerantz, op. cit., pp. 317-18; Hugh Finlay to his brother, New York, 29 May 1775, Calendar of Home Office Papers of the Reign of George III, 1773-75, pp. 365-66 (hereafter cited as Cal. H.O. Papers); "Case of Mr. James Rivington, Printer at New York" by Coriolanus, Gentleman's Magazine, November 1776, quoted in J. Shannon, Compiler, Manual of the Corporation of the City of New York, 1868, p. 825 (hereafter cited as Man. Corp. N.Y. 1868). Despite Rivington's absence from his shop, the paper continued to appear.

even more closely to the prevailing wind but once more changed course with the arrival of Governor Tryon. In June it carried two install-¹ments of Alexander Hamilton's pamphlet attacking the Quebec Act.

At that point, however, Governor Tryon, returning from Britain, reached the city June 25 simultaneously with Washington who was traveling eastward to take command of the Continental troops besieging Boston. The reappearance of the governor seems to have emboldened Rivington, and the Gazetteer took on a more pronounced Tory flavor. Even though the Rivington press had begun printing Hamilton's Remarks on the Quebec Bill, the newspaper not only discontinued further installments, but also ceased to advertise it. The June 29 number, furthermore, while containing a description of Tryon's reception by the town, had nothing to say about Washington's arrival in New York, and only a few words noting his departure for Boston. Having changed his publishing policy, Rivington persistently filled his columns with pro-Tory² news stories until the paper's demise in November, 1775.

The suppression of Rivington's Gazetteer is worthy of reexamination for two reasons. First, destruction of the press deprived the Tories of an influential voice in the province. Second, Isaac Sears, New York firebrand, played a leading role in this affair, but previous narratives did not adequately explain his leadership.

The most widely accepted interpretation is that Sears conducted the foray to satisfy his personal animus against the printer.

1. Riv. Gaz., 15, 22 June 1775. Rivington had published previously two other Hamilton pamphlets, although not serializing them in the Gazetteer.

2. Ibid., 29 June - 23 November 1775. On Washington and Tryon see below, p. 34.

The basis for this viewpoint is an acrimonious exchange of letters in 1774 between the two men. An examination of the letters, however,¹ does not reveal any threat, overt or implied, by Sears.

Early in January, 1775 Rivington and the Tories utilized a minor incident to seek to discredit Sears. The Gazetteer carried a statement by John Case which charged that Sears had threatened and roughly handled him in a political dispute. "A Friend to Constitutional Liberty" rebutted the accusation in detail with supporting statements from witnesses and stated that Case was a dupe of the "anti-American club" that met at Rivington's. Although he might² have done so, Sears did not turn his anger on Rivington.

If the accusation of a personal feud is true, the radical leader certainly did not have a consuming desire to wreak vengeance on his adversary. He waited eight months to strike a blow. With the city in turmoil the week after the news of Lexington arrived, Sears could have very easily organized a mob to destroy Rivington's press. Moreover, when a band did visit Rivington's shop in May, apparently seizing the sheets of a Tory pamphlet in press, they did not molest the newspaper which was published regularly during the

1. Pomerantz, op. cit., p. 318; Henry B. Dawson, Westchester County, New York, During the American Revolution, pp. 127-140; Thomas Jones, History of New York During the Revolutionary War, and of the Leading Events in the Other Colonies at that Period, ed. by Edward F. Delancey, I, 66; Becker, op. cit., pp. 245-46; Hildeburn, op. cit., p. 120; Victor E. Paltsits, "James Rivington" and Charles H. Vance, "Isaac Sears," Dictionary of American Biography, 15:638; 16:539; George H. Sargent, "James Rivington, the Tory Printer," Americana Collector, II, 336-41. The letters are in Jones, op. cit., I, 561-66.

2. Riv. Gaz., 12 January 1775; N.Y.J., 2 February 1775.

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printer's temporary exile.

Why then did Sears hold his grudge in abeyance another six months before putting an end to Rivington's printing activities? Governor Tryon did not mention personal feelings when he apprised Dartmouth of the incident. Tryon attributed the catastrophe to "the freedom of Mr. Rivington's publications, & especially in his last paper."² Although the last number of the Gazetteer bore the date November 23, Sears could not have seen it before setting out from New Haven on the twentieth on his expedition. The governor, however, may have been partly correct.

A comparison of the Gazetteer for November 2, 9 and 16 points to the issue of the ninth as likely to have offended the Whigs most. The volume of pro-Tory news in that paper far overshadows the other numbers; indeed, the final issue of the twenty-third is quite mild in contrast. Rivington devoted three and a half columns of the front page of the Gazetteer of the ninth to the August 8 proclamation of Governor Martin of North Carolina which labeled that colony's provincial convention as treasonable and its members traitors, ordered the arrest of its leaders, placed prices on the leaders' heads, and held out pardon to those who would ask for it.³ Page two presented the

1. Hildeburn, loc. cit. See p.12,n.1. The pamphlet, The Republican Dissected, was A. W. Farmer's reply to Hamilton's The Farmer Refuted. Advertisement, Riv. Gaz., 13 April 1775.

2. Tryon to Dartmouth, 6 December 1775, NYCD, VIII, 646.

3. Rivington copied the text from the Pennsylvania Journal, 1 November 1775, but the latter also printed the North Carolina Convention's indignant reply to Martin which the New Yorker omitted.

Boston Tories' address to Gage on his departure and the latter's reply. Page three contained more Boston items, three proclamations of General Howe, and a proposal to form an association of Boston Tories. Page four reproduced the Quaker address to the Pennsylvania Assembly, an address which was strongly Tory in tone.

Radical Whigs seem to have maintained a sharp eye on the press and reacted strongly. "An Occasional Remarker" attacked the Gazetteer in the New York Journal on the sixteenth, exhorting the Committee of Safety and other "friends of liberty" to make Rivington reveal the names of the persons who contributed the offensive pieces. Alarmed by the quantity of Tory news, "Remarker" also pressed for the creation of a special committee which would write replies to these stories. Thus it may be that "Remarker" reflected the growing alarm among the more radical rebels at the increasing boldness of Rivington.

There is still another aspect of this picture which deserves notice. Governor Dunmore of Virginia may have unwittingly played a part in Rivington's ruin. On the seventh of October he directed the seizure of John H. Holt's Norfolk press and two of his workmen which provoked the Tory mayor and town council to protest unavailingly. It is highly probable that Sears read of this event, since the story appeared in both the New Haven and New York papers. There is,

1. Of the other New York newspapers, the ardent Whig Journal did not carry any of the North Carolina, Boston and Philadelphia items, but the Gazette did publish the Boston stories November 6 and 13.

2. John H. Holt was the nephew of printer John Holt of New York.

3. Connecticut Journal, 25 October 1775; Riv. Gaz., 26 October, 2 November 1775.

furthermore, a more direct link between the Virginia and New York proceedings. According to the contemporary account of the Rivington incident, as Sears and his men carried out the types, "they offered to give an order on Lord Dunmore [for them]."¹ Thus the combination of the Gazetteer's content and Dunmore's confiscation of Holt's printing equipment led to the drastic action against the former.

Sears' foray from New Haven reflected careful planning which involved two other Yorkers, Samuel Broome and John Woodward. The leaders had two major objectives: the seizure of three Westchester Tories and the destruction of Rivington's press. Sears suspected the Westchester victims of planning to waylay him and put him aboard the British warship Asia. Assembling about 97 mounted men, Sears departed for New York on November 20. In Westchester the troop secured Samuel Seabury, Judge Jonathan Fowler and Mayor Nathaniel Underhill of Westchester Borough without incident and dispatched them to New Haven under strong guard. At Mamaroneck they burnt a small sloop which the British had purchased to supply the Asia. They paraded down Manhattan's "main street" at noon November 23 and drew up in front of Rivington's shop. It took a small detachment about three-quarters of an hour to smash the printing press and package the type. As they rode off with the type the "vast concourse" of spectators, estimated at 1,500, "gave them three very hearty cheers." On their eastward journey the raiders disarmed all the Tories whom they encountered. The last leg of the trip through Connecticut assumed the proportions of a triumphal pro-

1. Connecticut Journal, 6 December 1775.

cession and New Haven welcomed them with a salute from two cannon.

The loss of Rivington's Gazetteer deprived the British of a major channel of communication with the people of the province in this critical period and contributed to the diminution of the government's influence.¹

British patronage and the hesitant policy of the New York Provincial Congress inspired ugly suspicions in the other colonies. Holt's Journal published a warning to its readers on how New York looked to the outside world when it printed part of a letter from the familiar "gentleman in London to his friend":

The duplicity of New York will ever render them suspected. The many, repeated assurances given to the Ministry by their quondam leaders, will justify a suspicion, which the conduct of some of the merchants and traders confirms, that they would adopt any means to break through or elude the association.²

Closer to home, General Wooster of Connecticut was protesting to Governor Trumbull his subordination to the control of the New York Pre-

1. The Connecticut Journal, 29 November 1775, has a narrative of the raid. The same version also appears in the Connecticut Courant, 29 November 1775 and Pa. Jour., 6 December 1775. Briefer stories were published in the Constitutional Gazette, 25 November 1775, Connecticut Gazette, 1 December 1775 and Pennsylvania Gazette, 29 December 1775. Jones, op. cit., I, 66; Proceedings of the General Committee of New York 23 November 1775, Man. Corp. N.Y., 1868, p. 815.

2. N.Y.J., 31 August 1775, letter from London to his friend in Philadelphia, 4 June 1775. Pa. Jour., 19 April 1775 had printed an extract which stated that the ministry expected New York to desert the continental union. For similar sentiments see the broadside, To the Inhabitants of New York and...America, New York, 20 April 1775, NYPL which contains extracts of several letters from London. Franklin said the ministry expected the 4,000 troops being dispatched to New York would be received with cordiality. Extract of a Letter from Philadelphia to a Gentleman in this City, Dated the 6th Inst., New York, 8 May 1775, Broadside, NYPL.

vincial Congress as a "disgrace" to himself and a "dishonour" to his own colony. "Your Honour well knows," he wrote, "the suspicious light in which the New-York Congress are viewed by the rest of the Continent....I have no faith in their honesty in the cause." After¹ having encountered New York reluctance at first hand, General Charles Lee had much the same opinion of the rebel leadership.² Although Jay confessed anxiety for the "Honour of our calumniated Colony," he hastened to add, "I can assure you the Province stands well with the [Continental] Congress...."³ Jay to the contrary notwithstanding, a committee of Congress that had visited New York in February, 1776⁴ privately voiced skepticism of New York's loyalty to the cause. These misgivings persisted until the colony accepted the Declaration of Independence.⁵

Prior to 1776 royal government in New York exerted its influence through a variety of means. The colony's governmental machinery operated as the primary medium for this purpose. Indirect ties between government and people developed out of the city's position as British military headquarters. Control of the disposal of the colony's unsettled lands gave to the administration another device which it

1. Wooster to Trumbull, 24 August 1775, Force, op. cit., 4th Ser., III, 263.

2. Curtis P. Nettels, George Washington and American Independence, pp. 207, 211-12 (hereafter cited as Washington).

3. Jay to McDougall, 27 March 1776, McDougall Papers, NYHS. Jay said, "it would give me Pleasure to see them [New York] distinguished by vigorous Exertion."

4. Nettels, Washington, p. 212.

5. Becker, op. cit., p. 272.

manipulated effectively. Mercantile ties promoted an affinity between the government and some merchants, especially among those who had British correspondents or were factors for British houses. Commercial relationships often led to social ones and a significant number of marriages between officials and merchant families occurred. Lastly, royal government found supporters in the press and among the pamphleteers. So highly did the British value such aid that they rewarded able men like James Rivington, Thomas B. Chandler and Myles Cooper.

Notwithstanding the far-reaching authority of the government, a rising opposition to royal policies gradually broke down the government's supremacy. The province divided into two major groupings, Tory and Whig, that cut across social and class lines.

CHAPTER II

DIVISION INTO TORY AND WHIG

The slow growth of the New York revolutionary party and the tortuous course of the Whigs lend a deceptive appearance to political developments in the colony. From this combination of facts the unwary observer might conclude that the Whigs lacked majority support, but this conclusion would be erroneous. The succeeding pages will be devoted to the proof that by the eve of the war those favoring independence constituted a majority of the population.

It is impossible to determine with exactitude the division of the people into Tory and Whig. British rule in the province enjoyed its most loyal support among the DeLancey faction who composed the core of Toryism. The faction drew its leading personages from the landed aristocracy and the principal merchants of the province who largely supported the administration.¹ Beyond these privileged classes, moreover, the Tories possessed a numerous following among the middle landholders and tenantry, the professional classes, the smaller merchants,

1. Alexander C. Flick, Loyalism in New York during the American Revolution, p. 33 (hereafter cited as Loyalism); Harrington, op. cit., pp. 74, 349; E. Wilder Spaulding, New York in the Critical Period, 1783-89, p. 121; Harry B. Yoshpe, The Disposition of Loyalist Estates in the Southern District of the State of New York, pp. 121-53; Samuel Adams to Arthur Lee, 4 March 1775, Bancroft Transcripts; Samuel Adams Papers, NYPL.

Among the leading Tory landholders and merchants were the DeLanceys, Johnsons, Philippses, Beverly Robinson, Bayards, Rhinelanders, Roger Morris, Wallaces, James Jauncey, Henry White, John Watts, Isaac Low, William Axtell, Crugers, Coldens, Bapalges, George Folliot, Lloyds, Pells, Ludlows, Benyars.

mechanics and tradesmen, and among the urban laborers. The colony was indeed "a house divided." As for the revolutionary opposition, it attracted a minority of the great landed families and rich merchants but enlisted strong popular support among the middle class farmers and tenantry, the lesser merchants, mechanics and laborers. Beyond this general description it is possible to obtain an approximate idea of the relative strength of the contending parties through an examination of some of the events of these days and of the opinions of contemporaries. The problem will be treated in two parts: (1) the situation in New York City, and (2) in the province as a whole.

The "Friends of Government" challenged the "Liberty Boys" to a test of their popularity in February, 1775, when they sought to break the Continental Association against imports from Britain. When the James, Captain Watson commanding, arrived from Glasgow the morning of February 2, she became the occasion for a contest between the defenders of the established order and the government's critics. A few members of the Committee of Sixty leaned toward granting Watson permission to unload, but at a meeting that same night only three or four members out of some forty present voted for it. The Committee, therefore, ordered

1. Flick, Loyalism, pp. 32-33; Alexander C. Flick, ed., A History of the State of New York, IV, 151 (hereafter cited as Hist. N. Y.); Mark, op. cit., pp. 91, 201; Paul M. Hamlin, Legal Education in Colonial New York, pp. 135-55; Spaulding, op. cit., p. 127; Dawson, op. cit., p. 83; Yoshepe, op. cit., pp. 187-209. In June, 1775 ca. one-third of the Livingston manor tenants were Tory. Judge Robert R. Livingston to Robert R. Livingston, Jr., 17 June 1775, Revolutionary Letters of Importance: the Unpublished Correspondence of Robert R. Livingston, no. 46 (hereafter cited as Unpublished Corr. R. R. Livingston).

Among the Tory middle landholders and tenantry were Alpheus Avery, John Bates, James Beyea, farmers of Westchester; John Brown, William Brown, Abraham, Henry and John Bulyea, James Crawford, tenants of Westchester. Among the professional classes and merchants, for example, were Samuel Clossy of Kings College and Isaac Bennet, merchant of New Rochelle. Among mechanics, tradesmen and laborers were Thomas Austin, blacksmith, John Bennett, ship's carpenter, Frederick Brantigan, baker.

the James to depart without registering at customs or breaking cargo, although it granted the captain time to obtain supplies and necessary papers. At the special request of Buchanan, consignee of the cargo, the Committee conferred again the evening of the third to reconsider, but adhered to its original decision. Although the consignee declined to invoke governmental aid, the Friends of Government, with Watson's approval, planned to organize a posse to protect the unloading of the goods, a species of tea party in reverse. Learning of these intentions, the radicals spread the alarm and mobilized so many people to oppose the landing that it could not be carried through; the crowd¹ dispersed the posse.

Checkmated, but not willing to concede defeat, the Tories now turned to official measures. Lieutenant Governor Colden convened his council to determine on a course of action, and after a three hour debate with Colden excluded, the councillors ordered the man-of-war Kings Fisher to provide an armed escort for the James. When the James reappeared at the wharves with a naval complement aboard, a large Whig crowd stood ready to prevent the ship's unloading. Deterred by this show of popular sentiment, the Tories yielded. So great was the hostility of the people that when Captain Watson came ashore the next day, even Tory leaders denounced him. Oliver DeLancey exclaimed to Philip

1. Arthur M. Schlesinger, The Colonial Merchants and the American Revolution, 1763-76, p. 490; N. Y. J., 9, 16 February 1775; To the Freeholders, Freemen, and Inhabitants of the City and County of New York, 6 February 1775, Broadside, NYPL.

Livingston and Francis Lewis, "What does that dam'd Rascal come up
¹
 here again for? Why don't he quit the Port?" And quit the port
 Captain Watson did, with cargo unbroken,

The very day, February 10, the DeLanceys strove to mollify
 public opinion, a grand jury drew up an address to the city Court of
 Quarter Sessions. The message expressed opposition to parliamentary
 taxation and termed "oppressive" those acts of Parliament which ex-
 tended the powers of the Admiralty and Vice Admiralty Courts. The
 ideas and terminology follow section 14 of the Continental Associa-
²
 tion.

The government's position continued to deteriorate and suffered
 a further shock in the middle of April. Whereas in October, 1774 the
 Whig committee had disapproved interference with shipping supplies to
 Gage in Boston, in April, 1775 the Committee of Sixty resolved to for-
 bid the business. Although two merchants fell victim immediately to
 the ban, two others, Ralph Thurman and Robert Harding, set out to defy
 the Committee. Sears, John Lamb, and Marinus Willett rallied the
 people to compel the two merchants to abide by the Committee's resolu-
 tion. Alarmed by the threats of the British Barrack Master General

1. Quoted by William Smith. John DeLancey went about declaring to
 all and sundry that Colden had not solicited the captain to remain.
 Sabine, op. cit., pp. 209, 210.

2. N. Y. J., 16 February 1775 and Pa. Jour., 20 February 1775. A
 squib in the N. Y. G., 20 February 1775 stated that the jury foreman
 did not present the address to the court nor read it to the court.
 The Association text is in Schlesinger, op. cit., p. 612.

to take himself and his contracts elsewhere, the mayor and petty merchants importuned the government to intervene.¹ Although the council voted to have Colden issue a proclamation against interference with commerce, William Smith prevailed upon his colleagues to launch an inquiry into the matter in order to "know the Truth, & have solid Grounds to act upon."

After hearing the testimony of Barrack Master General Brigadier General Robertson, some members of the council implied to Mayor Hicks that the governor and council wished him to arrest Sears and Willett. The mayor obligingly had the two men brought before him. Willett gave bail, but Sears refused to do so on the ground that the arrest was "a violation of liberty." When the officers of justice arrived at the jail with their prisoner, they had to surrender him to a party of his friends who had gathered hurriedly to rescue him. The release became a triumphal procession, with colors flying, through the town to the Liberty Pole. According to prior notice, a multitude of people had assembled at the Pole to adopt a decision on the violation of the exportation interdict. Although Mayor Hicks and all the bailiffs had come to this meeting, Sears underscored their helplessness when he asked the audience, "Whether a Son of Liberty ought to give bail or not?" Upon hearing the question carried in the negative, the assemblage gave three huzzas. Thus the intended show of authority ended in defeat for

1. Ibid., p. 388; Becker, op. cit., pp. 162-63. General Robertson said he had spent £260,000 in his department, presumably since 1765. Sabine, op. cit., pp. 219-220.

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the government, exposing it to the contempt of the people. Although Anglican churchman Dr. Samuel Auchmuty could declare disgustedly that "our magistrates have not the spirit of a louse," there was little else they could do.² The British had reduced the garrison to slightly more than 100 men in order to reinforce Gage in Boston and could not rely upon the city militia, as coming events would soon prove. In Tryon County the Tory Johnson family depended upon their Highlander tenantry to intimidate and overawe the Whig farmers, but in the city to whom could the administration look for aid?³ The Sears incident dramatically revealed how public opinion had shifted since the preceding December.

At the close of December, 1774 an incident occurred which exposed the Whigs' weakness. Andrew Elliot, Collector of the port, seized a shipment of British manufactured arms imported in the Lady Gage. As the customs officers carted the arms to the custom house, a small party of Whigs fell on the officials and carried off the wagons. Before they could secrete the weapons, however, a larger body of royal

1. Ibid.; "Anti-Licentiousness" to the Printer, Riv. Gaz., 20 April 1775; To the Inhabitants of the City and County of New York, 13 April 1775. Broad-sides, NYPL; "Calendar of Council Minutes," New York State Library Bulletin 58, ed. by B. Fernow, p. 505 (hereafter cited as Cal. Council Min.).

2. Auchmuty to Captain Montresor, 19 April 1775 in Pa. Jour., 31 May 1775. Auchmuty hopefully predicted "That it will not be long before he [Sears] is handled by authority."

3. Becker, op. cit., p. 202; Flick, Hist. N. Y., III, 335; Samuel L. Frey, ed., The Minute Book of the Committee of Safety of Tryon County, pp. 7, 11.

officials recovered them and put the cargo aboard a man-of-war. A broadside appeared over the pseudonym "Plain English," arraigning Elliot for acting arbitrarily and exhorting the people to assemble and demand the arms. The Collector denied the charge and challenged "Plain English" to come to the Coffee House to present a bill of particulars. The Tories rallied a considerable number of people, including merchants, shipmasters, seamen and citizenry, to Elliot's defense. When the Collector demanded that the broadside's author step forward, there was no response and the crowd gave three cheers for Elliot. The Whigs could not win enough support to regain the arms. To a thoughtful Tory observer the contrast in public sentiment between December and April might have stimulated forebodings about the future. Any further inflammatory act or news might precipitate a crisis.

The crisis immediately followed the Sears affair. The grim tidings of Lexington reached New York around 2 P. M. Sunday, April 23, by an express rider from Connecticut and two ships from Newport. Hastily convening in response to the emergency, the Committee of Sixty met at 4 P. M. and took important preliminary steps. They dispatched the express to Philadelphia with the news, ordered the unloading of two sloops with provisions for the British troops in Boston, sent after a ship that was in motion down the harbor for the same destination, prepared a broadside containing the advices from Boston, and notified the citizenry of a public meeting in the fields at 2 P. M., Monday, the

1. Isaac Q. Leake, Memoir of the Life and Times of General Lamb, pp. 95-96; Riv. Gaz., 5 January 1775.

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 twenty-fourth. From the outset the Committee of Sixty seems to have firmly controlled the situation, but the tremendous upsurge of hostility to the British ministry caused the conservative wing of the Committee to reassess its position.

The outpouring of the people on April 24 played a part in the shift of the Committee's conservatives. An estimated 8,000 of the city's population responded to the call for a meeting. The rally approved proposals to organize a militia, to draw up a new Defense Association (a draft of which the Committee read), and to authorize the Committee "with full & unlimited Power to consult upon and determine & direct the means" for the city's preservation. By voting unanimously for the last of these proposals the meeting had in fact
 2
 created a revolutionary government for the city. The size and enthusiasm of the crowd and the policies approved may have aroused the conservatives to a realization of the need for a new approach. If the conservatives strove openly to block any action, the voters might cast them aside in favor of the radical leaders. They had to move with the current in order to retain their status. Therefore,

1. Radical leaders had broken into the city's arsenal to secure arms, but McDougall persuaded them to cease their distribution for a day. McDougall's notations, n. d., The Following interesting Advices were this Day received here, by two Vessels from Newport, and by an Express by Land, New York, 23 April 1775, Broadside, NYPL. For a contrary view of these and the subsequent events, see Becker, op. cit., pp. 193-99.

2. Pa. Jour., 26 April 1775; McDougall's notations, Following interesting Advices...by Land, 23 April 1775, Broadside, NYPL. McDougall opposed the appointment of officers for the militia.

the conservatives, working through the Committee of Sixty, published a broadside on the twenty-sixth advocating the expansion of the Committee to one hundred and the election of a provincial congress. The congress idea would certainly be popular and linking it to the former would reflect some of that popularity on the committee revision plan. The slate of one hundred circulated the next day antagonized the radicals and may have made clear to the latter the motivation of the conservatives in seeking these changes.

The conservatives' maneuvers put the radicals in a difficult position. By enlarging the membership of the Committee the conservatives hoped to add enough moderates and conservatives to ensure firm control of the Committee. The proposed ticket carried over fifty-five of the Sixty, of whom the moderates and conservatives numbered forty. Four radicals won places among the forty-five new men. The radicals found themselves at a disadvantage. On the one hand they objected to many of the candidates, but on the other hand the slate bore the official imprimatur of the Sixty who had popular backing. If the radicals offered opposition nominations, in whose name could they be put up? The radicals resolved their dilemma by sponsoring a meeting Thursday afternoon, April 27, in the name of the Sons of Liberty at which they obtained approval of their own nominees for the Hundred and the provincial congress.¹

1. Becker, op. cit., pp. 197-98; Sons of Liberty, New York, 28 April 1775, Broadside, NYPL. An earlier broadside implied the continued existence of the Sons: The Following Anonymous Letter was some Nights ago thrown in among the Sons of Liberty, 1775, *ibid.*

Striving to broaden the appeal of their ticket, the radicals revived the Sons of Liberty. Since the suffrage extended only to the freemen and freeholders, a slate offered by the Mechanics would have a more limited attraction than the Sons who had included merchants in their membership. On the hundred, only twenty-four differed from the Committee of Sixty's ticket, but of these, twenty-two were substitutes for the latter's forty-five new men. On the provincial congress list, the radicals backed only nine of the Committee's choice, substituting ¹ eleven of their own choosing.

Confronted with an opposing slate, the conservatives took to the press to justify their selection. Thus on Friday, the twenty-eighth, New Yorkers were reading the handbills of the Sons of Liberty and the Committee of Sixty which drew the lines of political strife. The Sixty had set Friday for the election, but apparently as a consequence of the opposition, their Friday broadside postponed the voting to Monday, May 1.

These political debates became even more complicated after the arrival of the Pennsylvania Journal on Friday. The newspaper contained an extract of a letter from London which stated that Oliver DeLancey, John Watts, Myles Cooper, Henry White and Colden had requested the North government to dispatch troops to New York to regain control of the colony. A furious crowd gathered which threatened "to proceed to execute them immediately." White and DeLancey did their utmost to assure the gathering of the falsity of the letter, but without notable success. So high did

1. Sons of Liberty, New York, 28 April 1775. ibid., NYPL.

tempers rise that the Committee of Sixty summoned a meeting that day in the Fields with two of the accused in attendance. Denials from White and DeLancey and a pledge to swear out affidavits attesting their innocence satisfied the crowd and averted the threat of violence. The next day the Sixty promulgated the new form of Association, and DeLancey, White and Watts produced the promised affidavits. The excitement over the Association eased the tension, and the Tories¹ heard no more threats.

Publication of the new Association by the Committee of Sixty dealt the radicals a shrewd political stroke. The firm tone of the oath not only reassured the Whigs of the Committee's steadfastness but also demonstrated to the moderates the adroitness of the conservatives. The latter's slates carried the election. The caution with which the new committee moved can be attributed to the natural prudence of the conservatives. While the committee contained a diversity of political views, to assert that it represented an instrument of party rather than a large proportion of the people is to ignore the foregoing events.

Impressive testimony of the minority position of the Tories in² the city comes from the Tories themselves. The governor's council,

1. Pa. Jour., 26 April 1775; Sabine, op. cit., p. 222. White went to the trouble of having his statement and affidavit printed as a broadside and distributed. To the Public by Henry White, New York, 29 April 1775, Broadside, NYPL.

2. However, McDougall has quite accurately predicted how the people would react in a crisis: "from the Knowledge I have of the State of this Colony, I am morally certain, they will not fly to Arms as a Colony; but by the Influence of one of these Contingencies Vixt: The Attack of the Troops on your People [i.e., Massachusetts]...." McDougall to W. Cooper, 9 February 1775, McDougall Papers, NYHS.

meeting Monday, April 24, to assess the situation, called in various officials to inform them on specific points. The councillors first considered turning to the militia, but Leonard Lispenard, commander of the city's regiment, said no aid would come from that quarter, since they counted themselves as Liberty Boys. The mayor then remarked that the authority of the magistrates had vanished. Councillor Thomas Jones, nevertheless, advocated calling out the militia, reading the riot act and imprisoning the ringleaders. William Smith, in opposing Jones, argued that the government would have to deal with the general population and not just a few rioters. To this, Jones had no rebuttal. "We were thus unanimously of Opinion," Smith recorded in his Memoirs, "that we had no power to do anything & the best mode of proceeding for private Safety and general Peace was to use Diswasion¹ from Violence."

Colden also confessed to the complete collapse of the government's authority. In his report to the Colonial Secretary, Colden attributed the lack of popular support for the government to the magistrates' timidity and the depletion of the garrison. A month later, however, he declared that government authority would have withstood the² storm if the garrison had been at its normal strength. Captain Montague of the Kings Fisher wrote with something akin to astonishment that "the

1. Sabine, op. cit., p. 221; Jones, op. cit., I, 41; Cal. Council Min., p. 505.

2. Colden to Dartmouth, 3 May, 7 June 1775, NYCD, VIII, 571, 582; Colden to Captain Vandeput, 27 May 1775, New York Historical Society Collections, X, 413 (hereafter cited as NYHS Coll.).

major part of the people here are almost in a state of rebellion...."¹
 One of the numerous letters from New York printed in a London newspaper
 commented that "in this city it is astonishing to find the most violent
 proposals meeting with universal approbation."² Merchant James Richardson
 explained the latest developments to his business correspondent in London
 with these words:

Friends of government in this city in danger and
 business suspended; port now re-opened and the whole
 city entered into an association to abide the measures
 recommended by the next Congress. All unanimous for
 the American cause.³

Even a fully-manned garrison might have had difficulty in main-
 taining the government, particularly in view of the revolutionaries'
 relations with the soldiers. The Whigs effectively utilized the press
 to appeal to the soldiery to desert and join the cause of liberty. Al-
 though only four men deserted from May 1 - 23, in the next three days
 four more went over to the rebels. Major Isaac Hamilton expressed to
 Colden his apprehension of losing the whole garrison. Ten days later
 Hamilton confessed to Colden that his position was untenable:

1. Montague to Admiral Graves, 26 April 1775, Cal. H. O. Papers, p. 358.
 See also the comment of a post office official, Hugh Finlay to his brother,
 29 May 1775, ibid., p. 366.

2. Letter from New York, 4 May 1775, Margaret W. Willard, ed., Letters
 on the American Revolution, 1774-76, p. 101. See also similar letters,
 1, 4 May 1775, ibid., pp. 97, 99-100.

3. Richardson to Alexander Gordon, 4 May 1775, Hist. Mss. Com., p. 299.
 For a similar comment see Smith Ramadge to Johnston and Canning, 3 May
 1775, ibid., p. 298.

The Loss of our Men by Desertion is so great, and [due to] the Apprehension of losing more, I therefore think it necessary for the good of the Service to retreat on Board his Majesty's Ship the Asia....

The British withdrew the troops, about 100 in all, to the Asia on June 6. The retreat, therefore, did not constitute a peaceful gesture to avoid an armed clash between the soldiers and citizenry.¹

The same month, June, which saw the garrison's evacuation, also witnessed another incident of some significance. As noted above, Tryon returned from England on the same day Washington reached the city on his way to Massachusetts. Not wishing to offend either party, the Provincial Congress detailed militia escorts for both. Ostensibly, the same people who greeted the General enthusiastically in the afternoon, "huzzaed for Tryon in the evening." Smith clarified this apparently contradictory action, when he put it down as a personal tribute to the Governor rather than a manifestation of attachment to the crown. The citizens "hate his commission," Smith recorded in his notes, "& would² certainly have insulted any other in that station."

Demographic statistics contribute a final bit of evidence to the completion of this examination of the city's political sympathies. Although population statistics for 1776 are only estimates, they do give some clue to the political temper of the people. Driven by fear of the

1. Becker, op. cit., pp. 218-19; Gage to Barrington, 13 May 1775, Gage Corr., II, 678-79; Major Isaac Hamilton to Colden, 26 May, 5 June 1775, NIHS Coll., 56: 297, 299-300; Colden to Dartmouth, 7 June 1775, NYCD, VIII, 582; To the Regular Soldiery of Great Britain, New York, 1 May 1775, Broadsides, NYPL.

2. Becker, op. cit., p. 218; Smith, Memoirs, V, 25 June 1775, Smith Papers, NYPL.

cannon's thunder, thousands of the inhabitants streamed out of the city. Some of them returned after the danger had seemed to abate, but by February, 1776, perhaps 7,000 had settled elsewhere.¹ When news of the impending descent of the British spread through the streets, a wholesale evacuation of the populace got under way, leaving approximately 5,000 behind. After the fighting had halted in the environs, the tide of migration reversed itself. Of the estimated 18,000 who had fled, some 4,000 made their way back through the British lines² into the city. General Robertson calculated the city's inhabitants in February, 1777 at 11,000, but this figure probably included loyalists from upstate and other states as well as a number of slaves who thought to find freedom with the British.³ Far from remaining overwhelmingly loyal, considerably more than half of New York City's residents opposed the crown.⁴

1. William Axtel, council member, placed the population at 16,000. Ibid., V, 11 February 1776, Smith Papers, NYPL. Calculation of the city's size is based upon the known rate of increase from 1756 to 1771. Since the port maintained a fairly constant ratio of the colony's total, ca. 12 percent, in 1776 it had some 22,937 inhabitants. Everts B. Greene and Virginia D. Harrington, American Population before the Federal Census of 1790, p. 91.

2. Oscar T. Barck, Jr., New York City During the War for Independence, p. 76. On the basis of the number who signed the loyalist welcome to Howe, Barck estimated the loyalist following in the city at 9,000. Ibid., p. 77, n. 10. See also Flick, Hist. N. Y., IV, 261; Edward P. Alexander, A Revolutionary Conservative: James Duane of New York, p. 156; Thomas J. Wertenbaker, Father Knickerbocker Rebels: New York City During the Revolution, p. 99.

3. Barck, op. cit., p. 77; Wertenbaker, op. cit., p. 103; Flick, Hist. N. Y. III, 346.

4. See Flick, Loyalism, p. 181.

To argue that the capital was a center of revolutionary activity is not to conclude that a majority of the province chose independence rather than British dominion. As in the case of the city there are no election returns to demonstrate how many supported the revolutionary cause and how many opposed it throughout the colony. Expressions of Tory opinion and indirect evidence, however, corroborate the existence of a Whig majority.

As the year 1774 drew to a close the government faced the unpleasant fact that the Whigs would move to have the colony nominate representatives to attend the Second Continental Congress. If the provincial assembly met, it would take into consideration the resolutions of the First Congress and the choice of a delegation to the Second. If the governor prorogued the assembly, the Whigs would win by default. The government, therefore, had no alternative but to permit the assembly to meet and to seek to win through parliamentary maneuver. Although the issue hung in the balance, the DeLancey party leaders regarded the prospect with foreboding, while the Whigs adopted an optimistic outlook.¹ At a private conference summoned to devise strategy, leading Tories first discussed whether they should block assembly approval of the acts of the Congress. Tactics of this sort, however, would lay the government open to a charge of arbitrary conduct. Convinced that they could muster only eleven votes to the Whigs' fourteen on the question of congressional endorsement, the Tories prepared to concede to the Whigs on

1. For a differing interpretation, see Becker, op. cit., pp. 174-75. The radicals did have a keen interest in the assembly's action. Sabine, op. cit., p. 208; McDougall to Samuel Adams, 29 January 1775, same to W. Cooper, 9 February 1775, McDougall Papers, NYHS.

another question in order to detach votes from the opposition. They would move for a petition to the king for a redress of grievances.

"The Generality [was] for this Measure as the only Scheme to prevent voting in Favor of the Congress."¹ If the government could win this

test, they could go on to defeat a motion to choose delegates to the

²Second Congress. It is an instructive comment on the state of opinion in the colony that a conservative assembly, elected by a limited suffrage, should be expected to take a stand in opposition to the crown.

At this critical juncture of affairs Colden determined to take an aggressive tone in his message to the legislature and drew up a strong, provocative address, condemning the Continental Congress and insisting upon the supremacy of the royal prerogative. After persistent criticism from the council, Colden modified the draft, but Smith said it shocked the assembly nevertheless. This incident points up Colden's willingness to act boldly, but Smith's Memoirs make clear the complexity of the inter-play between council and governor. The latter could not cavalierly disregard the council's advice. Colden's and the

1. It is curious that party leader James DeLancey opposed the proposal to make the petition to the king the first order of business, although he approved the petition. Moving the petition immediately would prepare the ground for defeating the Whigs. Sabine, op. cit. Merrill Jensen, The Articles of Confederation, p. 76 (hereafter cited as Articles), cites the assembly's disapproval of the Congress as evidence of strong opposition to the Congress.

2. Even though the Tories moved the petitions to king and Parliament, the drafts produced in committee proved to be too forceful for their taste. The Whigs charged the Tories with withholding emasculating amendments until some Whig members had left the session to return home. The subsequent addresses, they asserted, differed materially from the drafts approved in committee. McDougall to Josiah Quincy, 16 April 1775, McDougall Papers, NYHS; Becker, op. cit., p. 177.

council's failure to act decisively on various occasions reflected more an acknowledgment of their lack of force with which to execute firm policies than personal timidity.¹

In the middle of March, 1775 instructions from Dartmouth came to hand, directing Colden to prohibit the province from sending delegates to the Second Continental Congress. Since the assembly had voted against doing so, the Whigs set out to call a provincial convention to choose the deputies. In fact the Whigs had scheduled an election for March 15 to approve the convening of the convention. Two days prior to this election, Colden met with the council to consider the Colonial Secretary's orders. Although normal procedure entailed the issuance of a proclamation conveying the Secretary's instructions, neither Colden nor the council relished the idea. "All agreed that it would excite the People to be more zealous for Delegates." At Smith's suggestion they determined to have Colden show the letter to the assembly and to inform others that a congress displeased the king and that Dartmouth had forbidden it.² Although the Friends of Government had exulted only recently over their victory in the assembly, they watched it turn into a paper triumph. So little effect did Dartmouth's letter have on colonial opinion that the government did not dare to take the next logical step and forbid the assumed minority to select representatives for the Congress.

1. See Becker, op. cit., p. 193 and n. 3; Sabine, op. cit., pp. 205-06; Cal. Council Min., p. 503.

2. Sabine, op. cit., pp. 212-13.

When Tryon resumed the reins of government in June, 1775, he perceived he could do little directly to re-establish British authority. As he disclosed to the Colonial Secretary, "to attempt coercive measures by the civil aid would hold up government to additional contempt by the exposure of the weakness of the executive and civil branches...." Moreover, he added, even the legislature would not accept the parliamentary measure for conciliation.¹ By October the governor seems to have relinquished hope that Tory sentiment could ever again command a majority in New York, since he read and approved a letter from William Smith to General Frederick Haldimand which quite frankly outlined the political atmosphere:

There is no more Hope from Intrigue & Diversity of Sentiment, no further Dependence upon antient Prejudice and Habits. The Americans are voluntary Subjects to Congresses and Armies of their own forming, who are systematically supporting a Principle, which no man dare any longer to controvert on this Side of the Water.²

1. Tryon to Dartmouth, 4, 7 July 1775, NYCD, VIII, 589, 593; same to same, 7 December 1775, Hist. Mass. Com. p. 402.

The fact that the governor with council concurrence refused to let the assembly meet during 1775 implies admission of the government's minority position.

2. Smith, Memoirs, V, 6 October 1775, NYPL. Smith declined a seat on the bench in December, 1775 because he considered the administration "a falling house." Ibid., 19 December 1775.

A correspondent of emigre Isaac Wilkins made the following interesting observation on political polarization: "The people of desperate fortunes, and those who are sure to swing for what they have done, are as violent as ever, as are most of the ignorant, who are led by the others, but those of prosperity are afraid of these estates, and are coming about fast." V. Pearse Ashfield to Wilkins, 4 November 1775, Cal. H. O. Papers, p. 482. For other comments on Tory weakness see Hugh Finlay to his brother, 29 May 1775, John DeLancey to Oliver DeLancey, Jr., 3 October 1775, same to Ralph Izard, 5 October 1775, ibid., pp. 366, 439, 443.

The employment of troops to suppress the Whigs in the province received extensive consideration, but Colden warned the ministry to dispatch a large enough number "as might deter any Opposition to them." When the proposal to march troops through New York to recapture Ticonderoga from the Allens was considered the lieutenant-governor advised Gage "the Spirit and Phrensey of the People is such that it may be questioned whether one Regt could now prudently venture thro' the Country."¹ Tryon's estimate of the number of soldiers necessary to pacify the colony furnished a further clue to the state of political sympathies. He thought that more than 6,000 regulars aided by three² or four regiments of loyalists would have to be utilized.

Although the Whigs had taken the initiative in evolving suitable forms to oppose the policies of the home government, the Tories had not countered effectively. In the contest for men's loyalties the Tories did not manage to set up an active organization which could

1. Colden to Gage, 31 May 1775, NYHS Coll., X, 415.

By August, 1775 both Gage and Dartmouth thought New York lost to the government as a consequence of the Tories' minority position. Gage to Dartmouth, 20 August 1775, Dartmouth to Gage, 2 August 1775, Gage Corr., I, 413-14, II, 205.

2. Tryon to Dartmouth, 7 August 1775, NYCD, VIII, 598. See also John Weatherhead to Charles Williams, 5 July 1775, Hist. Mss. Com. p. 327.

The North government ordered four regiments, ca. 2,800 men, to New York, but Gage intercepted the ships and diverted them to Boston. Vandeput to Colden, 1 June 1775, NYHS Coll. 56:299; Gage to Lord Barrington, 6 June 1775, Gage Corr., II, 682; Smith, Memoirs, V, 28 June 1775, NYPL.

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command a numerous following. When the occasion demanded it, they engaged the dissidents vigorously in several spheres of battle. They raked the Whigs heavily in the newspapers and in pamphlets; they battered them in the assembly. They obstructed the formation of local and county committees; they voted against holding a provincial convention.² They fought against the selection of delegates to the Continental Congress and opposed the enforcement of the Associations, Continental and Defense. They stood for the established order of things and obedience to the law.³ When words and ballots seemed

1. Becker, op. cit., pp. 160-61, argues: "In defining their position the loyalists were strong; it was in giving practical effect to their views that they were weak. They never had any party organization worthy of the name, and in the nature of the case it was difficult for them to have one. Their position was essentially one of negation: they denied the authority of Congress; they denied the expedience of non-intercourse; their organization was the English government itself, and upon it they relied to do whatever was necessary. To attempt to suppress the extra-legal committees by force would involve the very illegal methods against which they protested."

2. Ibid., pp. 201-03.

3. A protest in Orange County against signing the Defense Association presents an interesting commentary on the extent to which the debate over political rights had spread through the countryside. Thirty-two recalcitrants drew up a substitute statement in which they re-affirmed their loyalty to the king, but protested their love of liberty, "disallowing taxation in any wise contrary to the Charter, and shall neaver consent to texsation without being fully represented with out consent." See also a similar espousal of no taxation without representation by a district committee in Tryon County in 1774. Cal. Hist. Mss., I, 9; Frey, op. cit., p. 1.

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inadequate, the Tories did not hesitate to try suppression.

Reverend Samuel Seabury participated in this phase of the contest. In a pamphlet directed to the colonial assembly, he called upon the legislature to denounce the Continental Congress and Association and to refuse to cooperate further with the other colonies. Majority approval of this policy, he declared, would be forthcoming from the people when the assembly delivered them from the tyranny of committees, from the fear of violence and the dread of mobs. However, he gave no hint how the assembly could accomplish these objectives. A statute forbidding committees would have entailed the use of force to suppress them. Perhaps Seabury intended this, since he pleaded with the legislature to "break up this horrid combination of seditious men." 2

These events do not disprove, however, the contention that the Tories by the very nature of their position did not need, nor could they have an extensive party structure. The conduct of the Friends of Government in other circumstances will demonstrate whether they did endeavor to rally the people to their side.

When the Whigs plunged into the task of obtaining local approval of the Continental Association in the first months of 1775, they stirred

1. See above, pp. 22-26, 38. the ship James incident in February, Dartmouth's order of March re delegates to the Congress, the arrest of Sears in April and the actions of the Johnsons in May. Set on foot by Dr. Myles Cooper, a move began in March to ban a Whig meeting in the city, but government leaders seem to have divided on the proposal and did nothing. To the Freemen and Freeholders of...New York, 23 September 1775, by "The Remembrancer," Broadside, NYPL; Sabine, op. cit., p. 211.

2. An Alarm to the Legislature of the Province of New York, pp. 83, 88, 89.

the Tories into brisk opposition. In some districts the adversaries drew up Loyalist Declarations, in others they signed counter-associations. The latter usually contained a pledge to assist the magistrates¹ in the execution of the law. Under the leadership of the Johnsons and Butlers, the grand jury and magistrates of the Tryon County Court of Quarter Sessions published a loyalist declaration. Shortly thereafter, in early May, the Palatine District Committee denounced the² declaration as unrepresentative of the county. The loyalist associations marked a new phase in Tory tactics, the attempted formation of a popular bulwark.

The Tories seem to have concentrated their efforts in Westchester and Dutchess Counties, but after three months they claimed a maximum of only 600 signatures to their association in the latter county. The lack of spirited response and Whig counter-measures apparently³ stalled the drive and the Friends of Government never revived it. A similar fate overtook the Westchester campaign. Their rebuff is all the more surprising, since the county's greatest manor-holder, Frederick Philipse, played a leading part among the Tories. On the other hand, Pierre Van Cortlandt of Cortlandt Manor aligned himself with the Whigs.

1. Becker, op. cit., pp. 170-72; Schlesinger, op. cit., p. 493; Dawson, op. cit., pp. 43-45; N. Y. G., 13 February 1775; Riv. Gaz., 16 February, 2 March, 6 April 1775.

2. Frey, op. cit., pp. 4-5.

3. "One of the Associators of Dutchess County," Riv. Gaz., 30 March 1775. The Tories circulated their Association among all male inhabitants, not simply the freeholders. By the 1771 census the county had 21,000 whites.

"Ab Inhabitant" of the latter manor happily informed the public that "some lovers of Loyalty and Liberty" had "disconcerted" the loyalist Association drive there.¹ Thus the Tory Association movement lost momentum and died.

If the Tory measures to mobilize a popular base did not succeed, neither did the Whigs, according to some writers, attain that objective.² Two key tests supply the criteria for the latter judgment, the elections in April, 1775 for the Provincial Convention and in May, 1775 for the First Provincial Congress. Unfortunately, the surviving fragmentary evidence of participation in the balloting renders any conclusions tentative ones. However, a re-examination of certain contests suggests that the Whig influence predominated, although the Tories have hitherto held that position in historical works.

The cases in point in the Provincial Convention elections are Dutchess and Westchester Counties. After the election in Dutchess, the Tories attacked the Whig delegates as representatives of a minority. An anonymous correspondent set down the Tory estimate of the county's sentiment, but gave figures for only one of the eleven Dutchess precincts. He said Poughkeepsie precinct balloted 110 to 77 against sending delegates; that a "great majority" in Charlotte precinct voted similarly; that in five other precincts the people "almost unanimously opposed" the Convention. These supporters of royal administration approved a

1. Becker, op. cit., p. 189 and n. 51; Dawson, op. cit., p. 47; "An Inhabitant," Cortlandt Manor, N. Y. G., 19 June 1775.

2. Becker, op. cit., pp. 187-91; Dawson, op. cit., passim.

"Protest" against holding a provincial convention and denied that the remaining four precincts, which had voted Whig, spoke for the county. The writer of this letter felt so confident of his case that he offered to produce proof: "If any of the Minority entertain the least Doubt that the Protest does not express the Sense of the Precincts therein mentioned, formal and ample Testimonies of its Authenticity shall be sent you." "A Freeholder of Dutchess County" retorted that the Tories never read the Protest publicly, nor did any one of the seven precincts approve it before it appeared in print. Furthermore, this Whig "Freeholder," maintaining that 1,200 of the 1,800 county freeholders favored the provincial convention, challenged the Friends of Government to print their list of names with precincts appended in order to prevent fraud. After a two weeks pause a Tory rejoinder appeared which declined further disputation on the grounds that "every Altercation that may tend to promote Divisions and Animosities ought carefully to be avoided; and...a Coalition of Parties in the County of Dutchess will probably very soon take place, and a proper Union between its Inhabitants established...." It is possible that the Whigs did not have enough time to organize their support throughout the county, but even so, the Tories seemed to have strength to counter only in Charlotte and Poughkeepsie. However, the news of the fighting at Lexington may have dissipated the previous indifference and deprived the Tories of much of their strength. Therefore they declined to produce proof of their strength.

As in Dutchess, a sharp skirmish developed in Westchester over participation in the provincial convention. When the Whigs circulated an appeal to the freeholders to meet at White Plains to select a county representation, the Tories rallied their adherents, freeholder and non-freeholder alike, to oppose them. "A White Oak," writing in Rivington's Gazetteer, pressed the Tories "to give your votes" against the convention. Led by Colonel Frederick Philipse, Assemblyman Isaac Wilkins and Reverend Samuel Seabury, some 250 gathered at White Plains on the appointed day to cast their ballots. Although the two opposing factions comprised approximately an equal number, an important difference existed between them. The Whigs seemed to be freeholders, a fact which the Tories never disputed, whereas almost fifty percent of the opposition fell into the non-freeholding class. Consequently, in the balloting half the Tory votes would be challenged and the Whigs would carry the day. Possibly this is the explanation of the Tory withdrawal from the meeting without voting.

The importance of the White Plains incident lies in the determination of the representative character of the two parties. The evidence, however, is inconclusive. Since the Whigs claimed freeholds, it is possible they represented a larger section of the county population than the Tories. On the other hand, a comparison of the list of Philipsburg Manor occupants with the signers of the loyalist statement shows that Philipse tenants constituted about one-third of the group that accompanied the Colonel to White Plains. In an attempt to recoup the loss at the county courthouse, an anonymous writer, perhaps Wilkins or Seabury, alleged that two-thirds of the county disapproved the pro-

vincial convention and promised to prove it with the publication of certain resolves then signing. Unfortunately, the Friends of Govern-
¹
 ment did not fulfill this promise.

The chief point of interest in the First Provincial Congress election is the contention that in at least five of the counties only
²
 a small minority participated in the voting. In two of these, Tryon and Dutchess, however, there are indications to the contrary. Tory influence in Tryon seems to have centered in Mohawk District, the Johnson bailiwick, but the Whigs dominated the other four districts. The key factor lay in the tardy organization of the county committee. The Palatine District Committee notified the Albany County Committee 19 May 1775 that it could not hold an election early enough to be in time for the congressional meeting. Nevertheless, the Committee assured Albany, a majority of the county are Whigs. Five days later thirty delegates from all districts, except Mohawk, met to form a county committee. Despite threats by the Johnsons, the Mohawk people chose four persons to represent them on the county committee. When the Johnsons threatened to imprison some of the Whig leaders, the county committee resolved to use force to free them unless the Tories abided

1. "A White Oak," Riv. Gaz., 6 April 1775; Lewis Morris to the Printer, 11 April, Anonymous, Westchester County, 13 April, Lewis Morris to the Printer, 7 May 1775, N.Y.G., 17 April, 15 May 1775; Memorial of Samuel Seabury, Philipsburg Rent Roll, in American Loyalists, Transcripts of the Manuscript Books and Papers of the Commission of Enquiry into the Losses and Services of the American Loyalists, 41:562, 581-592, NYPL; M. K. Couzens, Index of Grantees of Lands Sold by the Commissioners of Forfeitures of the Southern District of the State of New York, passim.

2. Becker, op. cit., p. 201.

by legal procedures. Undeterred by the Johnsons' armed tenantry, the Whigs could report by June 2 that all districts had met to sign the congressional Association and had completed the choice of full delegations to serve on the county committee. In response to the urgent letters of May 31 and June 3 from the First Congress, the committee voted promptly to delegate two members to represent Tryon County in Congress. With this action Judge Robert R. Livingston could advise his son, "the whigs are predominated at last in Tryon...."¹

In Dutchess the post-election conflict over the Provincial Convention still roiled the waters when the city committee's circular, soliciting a provincial congress, reached the inhabitants in early May. The Whigs campaigned energetically to establish committees in every precinct and to have citizenry sign the Association. The Tories fought back vigorously, but the tide ran against them. In mid-June the Whigs said with assurance that "Committees either have or will be chosen in every part of Dutchess...." Considered in the context of this activity, the election of delegates to Congress would seem likely to have aroused more than a minority of the freeholders to participate.²

The clash of arms in the spring of 1775 sharpened the tensions in the colony and the subsequent deepening of hostility to the administration turned the Tories from words to guns. Shortly before Lexington and Concord, Dartmouth approved a plan to raise an armed Loyalist Asso-

1. Ibid., pp. 202-03; Frey, op. cit., pp. 9, 12-19; Judge Robert R. Livingston to Robert R. Livingston, Jr., 17 June 1775, Unpublished Corr. R. R. Livingston, no. 46.

2. Ibid.; Becker, op. cit., p. 203.

ciation from the Highlanders of New York to oppose all illegal combinations and insurrections and to give the utmost aid in suppressing all such practices as were contrary to the law and to the king's authority. The project seems to have contemplated the settlement of Associators on a strategically located tract of land in the province, awarding to each family head taking the oath of Association 100 acres free of quitrents for five years. Although Dartmouth had commanded Colden to secrecy, Gage re-emphasized the necessity of stealth, "for the Friends of Government appear every where to be so subdued, as not to admit of its being done openly." When the Association's sponsor, Colonel Allen Maclean, reached New York, the omni-present hostility to the government sent him rushing off to Boston to confer with Gage. Apparently fearful of arousing the Whigs' anger, he dropped the Association scheme, but made his way cautiously to Johnstown. There he arranged with Sir John Johnson to recruit Highlanders for him from among his tenantry and to dispatch them to Montreal where he intended¹ to organize a regiment. Toward the close of the year, Sir John Johnson also undertook the formation of a battalion of his own, but, he wrote to Tryon, "we must however not think of stirring till we have a support...." That support never came, however, even though Johnson

1. Colden to Dartmouth, 7 June 1775, Dartmouth to Colden, 5 April 1775, NYHS Coll., X, 426, 56:281; Gage to Dartmouth, 25 May, 24 July, 20 September 1775, Dartmouth to Gage, 15 April 1775, Gage Corr., I, 401, 409-10, 414-15, II, 193, 195; Warrant to Colonel Maclean to Raise a Regiment, 3 April 1775, Oath of Association, Colden to Dartmouth, 3 July 1775, NYCD, VIII, 562-63, 564, 588; Force, op. cit., 4th Ser., III, 552.

raised 500 to 600 men. Schuyler disarmed them in January, 1776.¹ If the Tories had the numerous adherents claimed for them, Tryon and Maclean would have succeeded in founding the Loyalist Association.

The last link in the chain of evidence relating to the division of political loyalties is military service in the respective armies. There can be no more severe test of political beliefs than to call upon a people to defend them with their lives. That the Yorkers did so is a gauge of the profundity of their attachment. Determination of the numbers who served, however, is a very difficult task. Obstacles of many kinds beset the investigator, some of which are insoluble for the present. For example, the American lists of soldiers do not distinguish men who enlisted as paid substitutes, deserted, then re-enlisted for someone else. Nor can we tell how many fictitious names there are in muster rolls, nor how many who deserted at a propitious moment to join the British.

Since available military statistics are incomplete and even conflicting, one method of evaluating them is a comparison with population figures. The Revolutionary Army drew 19,793 New Yorkers into the regiments of the line, the levies and into the privateers. Another 43,645 served in the militia and an additional 8,327 prepared for duty,

1. Sir John Johnson to Tryon, n.d., Tryon to Dartmouth, 5 January, 7 February 1776, NYCD, VIII, 651, 663.

Tryon directed his energies toward the military organization of the Queens County Tories, an act which provoked the Provincial Congress to request the Continental Congress for troops. The Tories published a Declaration, averring that they were arming for self-defense only. New Jersey troops disarmed about 600 in January. Becker, *op. cit.*, pp. 238, 244-45; Queens County, 6 December 1775, Broadside, NYPL.

but the termination of the war spared them. The total is 51,972. Furthermore, fragmentary documents suggest that this figure is incomplete, that units existed whose records have disappeared. Approximately 23,500 fought for the British, of whom 15,000 were in the army and navy and 8,500 in the loyalist militia. Thus the total number of men under arms is 75,472. Herein lies a contradiction. The 16 to 60 age group supplied the pool from which the armies drew their recruits. According to the censuses of 1756, 1771 and 1786, this bracket comprised 23.8 percent, 25 percent and 24 percent respectively of the total white population. Therefore, if 75,472 men bore arms, using 25 percent as the age bracket percentage, the total white population must have been at least 301,888. Since the 1771 census counted

1. James A. Roberts, compiler, New York in the Revolution as Colony and State (2nd ed.), p. 15 (hereafter cited as N. Y. in Rev.). A year by year breakdown of regulars and levies furnished the Continental Army is in the Hamilton Papers, L. C., V (microfilm, 1st Series, reel 3, courtesy of Hamilton Papers, CUL).

2. Flick, Loyalism, p. 112; Claude H. Van Tyne, The Loyalists in the American Revolution, pp. 182-83. Van Tyne agrees with Flick's estimate, but an analysis of some of the sources employed by the latter raises a question as to their reliability and their interpretation. The detailed presentation is in Flick, pp. 95-112. For the most part figures of troops are drawn from general statements and commissions to recruit specific numbers. Flick used very few unit records. The difficulties to which the use of this material can lead receive illustration in the Appendix, pp. 230-34.

3. In August, 1776 the Provincial Congress ordered all white males ages 16 to 50 to enroll in the militia. Since the state was under almost incessant attack from 1776 to 1782, it is unlikely the government released the able-bodied from militia duty after attaining the age of 50. Journal of the Provincial Congress, Provincial Convention, Committee of Safety and Council of Safety of the State of New York, 1775-77, I, 566 (hereafter cited as Jour. Prov. Cong.).

4. Greene and Harrington, op. cit., pp. 101, 102, 104; Daily Advertiser, 26 December 1786.

only 148,124 whites, it is highly improbable that the population could have doubled. Even if we assume that the rate of growth was the same for 1771-76 as for 1756-71, the total white population would have been only 169,148 and the military age group only 42,289. It is possible that the estimates of men in arms are erroneous and that the population increased more rapidly from 1771-76 than has been supposed. Application of the 25 percent military age bracket to a suggested total white population of 208,000 would yield a pool of 52,000 fighting men.¹

Although the Revolutionary Army compilations derive from an actual computation of names on payrolls and muster rolls, it is obvious that they are unreliable. On the other hand, the state of the evidence² does not permit an accurate re-evaluation.

An analysis of loyalist statistics reveals much the same situation as that of the America. First, the total number of loyalists in arms from all colonies seems to be less than Flick imagined. An early computation, which had the merit of drawing upon muster rolls,

1. Estimates of the New York population in 1776 vary from 190,000 to 200,000 including slaves. Although the Continental Congress had accepted the latter figure, the former figure is an estimate based on the rate of increase between 1756-71. Robert R. Livingston thought the total to be 190,000 in 1775. Greene and Harrington, op. cit., pp. 7, 91; Livingston to de la Luzerne, 24 April 1787, Robert R. Livingston Collection, NYHS.

Granting the greater validity of the American figures, it would be necessary to reduce them drastically to tailor them to fit into a white population of 169,000. On the other hand, if we increase the total white population much beyond 208,000, the growth between 1771-76 tends to become less credible.

2. Nevertheless, a very general approximation might be made on an arbitrary basis. Such an approximation might allow an error of 15,000 for all factors. Subtraction of this number from the American computation of 51,972 would leave 36,000. Thus the loyalists on this basis would have 16,000.

placed the overall figure at 15,000, although the author warned that¹ he could not find some unit records. Troop returns by Howe and Clinton reveal that provincial forces ranged from 3,000 to 8,200 in² any one year, while those in Canada fluctuated around 2,400. A maximum of 25,000 would seem to be a reasonable appraisal of the total loyalist contribution. When assessed against this figure, it is³ highly improbable that New York's share is 23,000. Second, many New York units consisted of men from other colonies as well as from New York. For example, one battalion of DeLancey's brigade drew its

1. W. O. Raymond, "Loyalists in Arms," New Brunswick Historical Society Collections, II, 220-21 (hereafter cited as "Loyalists").

2. After a year's occupation of southern New York Howe could only list 3,257 provincials from all colonies. Troyer S. Anderson, The Command of the Howe Brothers During the American Revolution, p. 314; Sir William Howe, A Schedule of Sir William Howe's Correspondence as Produced to the House of Commons, p. 390 (hereafter cited as Corr.); Historical Manuscripts Commission, Report on the Manuscripts of Mrs. Stopford-Sackville of Drayton House, Northamptonshire, II, 65, 212 (hereafter cited as Stopford Mas.); Sir Henry Clinton, The American Rebellion, ed. by William B. Willcox, p. 548 (hereafter cited as Am. Rebellion); Ernest A. Cruikshank, ed., The Settlement of the United Empire Loyalists on the Upper St. Lawrence and Bay of Quinte in 1784, pp. 30-31.

3. Flick thought that the New York total was about half of all loyalists in British units. Loyalism, p. 113.

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recruits from Connecticut. Third, an unknown number joined the British army involuntarily. Howe himself admitted that his officers sought recruits among prisoners of war, offering such inducements as

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"pay, liberty and pardon." The British employed another kind of inducement of which the Continental Congress took note. Its Board

1. On DeLancey see A. W. Eaton, "New York Loyalists in Nova Scotia," The Grafton Magazine, February, 1910, p. 174. Roger's King's Rangers included enlistees from Quebec, New Hampshire, Connecticut, Nova Scotia and other colonies, although the British regarded it as a "New York" corps. Simcoe's Queen's Rangers began with ca. 100 from Westchester, but the bulk of the unit were Europeans. Although Maclean raised one battalion of his Royal Highland Emigrants in New York, the other battalion comprised Nova Scotians. Indeed some of the men came out of Quebec's prison. The New York Volunteers first came from New England refugees and later from New York. Another Yorker regiment, the Royal Fencible Americans, had its origins in Boston in 1775. The King's Royal Regiment of New York numbered men from Canada, New Hampshire, and Vermont. Wilbur H. Siebert, "The American Loyalists in the Eastern Seigniories and Townships of the Province of Quebec," Royal Society of Canada, Proceedings and Transactions, Series 3, VII, Section II, 15, 16; Jour. Prov. Cong., II, 317; H. M. Jackson, "Queen's Rangers and Their Contribution in the Years 1776 to 1784," Canadian Historical Association, Annual Report, 1950, p. 13; H. M. Jackson, Roberts Rangers, pp. 183-88; Jonas Howe, "The Royal Emigrants," Acadiensis, IV, 50-51; C. T. Atkinson, "British Forces in North America, 1774-81," Journal of the Society for Army Historical Research, XVI, 6, 9, 14, n. 26.

Not all loyalists came from the revolting thirteen colonies. Some had just arrived from Europe, some lived in Canada and Nova Scotia. Howe stated that a large number of his 3,609 provincials in May, 1778 were not Americans. There are indications that Scottish emigrants reached America only to be inducted into loyalist regiments. Narrative of Lieutenant General Sir William Howe in a Committee of the House of Commons on 29 April, 1779 Relative to His Conduct During His Late Command of the King's Troops in North America, pp. 52-53 (hereafter cited as Narrative); W. O. Raymond, "Roll of Officers of the British American or Loyalist Corps," New Brunswick Historical Society Collections, II, 225, 226; Const. Gaz., 30 December 1775.

2. Howe, Narrative, p. 52. Since the king had declared the Americans rebels, they might be threatened with execution. Howe's statement on "pardon" implies that the British did so threaten the prisoners.

of War reported that the British commonly held new prisoners for three to five days without food, then tempted them to enlist in order to avoid starvation.¹ There is profuse testimony of British compulsion, particularly among the prisoners aboard the prison hulks in New York harbor where thousands died.² Lastly, contemporary correspondence indicates that some loyalists deserted from the British. Unfortunately,³ no figures are available and the scope of the movement is indeterminate. For these reasons the calculations of New York loyalist soldiers are tentative until someone evaluates these factors accurately.

1. N. Y. P., 26 February 1778. John Adams threw this charge at the British during the peace negotiations in 1782. He said the British starved the American prisoners taken at Fort Washington in order to force them to enlist in the British Army. Extract from John Adams's Journal, 17 November 1782, American Daily Advertiser, Extra., 12 February 1794. See also the references to 1,821 privates in "dispute," presumably the Fort Washington prisoners, in David L. Sterling, ed., "American Prisoners of War in New York: A Report by Elias Boudinot," William and Mary Quarterly, 3rd Ser., XIII, 382, 384.

2. Depositions of Robert Troup, 17 January 1777 and Adolph Myer, 5 February 1777, Jour. Prov. Cong., II, 411, 412; testimony of Peter Wood, 19 February 1777 and deposition of Garret Luyster, 13 May 1777, NYHS Coll., 57:135, 283.

On the prison hulks, see David Ramsay, History of the Revolution, II, 372; William Gordon, History of the Rise, Progress, and Establishment of the Independence of the United States of America, II, 172; Henry Onderdonk, British Prisons and Prison Ships at New York, 1776-83, n. p., "recollections of General Jeremiah Johnson"; NYHS Coll., 57:89; American Citizen, 22 February 1803; Albert G. Greene, Recollections of the Jersey Prison-Ship, pp. 70-71 and n. 1.

Hobart relayed disturbing news about Tryon's recruiting tactics in Suffolk. The British governor threatened Huntington that "unless the young men do voluntarily take up arms against their country, an inveterate and disappointed soldiery will be let loose upon them." Jour. Prov. Cong., I, 671.

3. John Henry to President, Council of Safety, 31 May 1777, ibid., II, 444; Assistant Commissioners for Conspiracies to Council of Safety, 4 December 1777, NYHS Coll., 58:445.

There is still another element in any consideration of Tory strength. If the loyalists counted such large numbers of supporters as they themselves so frequently maintained, why did they not rally to the British standard when Howe arrived? Howe, for example, described the energetic, but futile, efforts of DeLancey to bring his brigade to its authorized level of 1,500. Brigadier-General DeLancey scoured not only the occupied counties, but also the American-held areas for volunteers. Despite these vigorous exertions, at the commencement¹ of the 1777 campaign DeLancey's brigade numbered only 597 men. As a matter of fact, General Howe quickly perceived the fatal weakness of the Tories, for in September, 1776 he wrote to Lord George Germain from New York:

We must also have recruits from Europe, not finding the Americans disposed to serve with arms, notwithstanding the hopes held out to me upon my arrival at this port.²

Burgoyne put the loyalists to the acid test in 1777 and found them wanting. Some historians think he acquired a few thousand reinforcements from the Tories, but reliable statements place the amount³ at 682 to 830. Burgoyne extensively solicited loyalist aid before

1. Howe, Narrative, p. 52.

2. Stopford Mss., II, 41.

3. Flick opines "several thousand," but Siebert reduced this to ca. 2,000. There is a difference in the official statement of the British lists, but Fortescue mentions the larger number, 830. The inconsistency of Siebert's estimate is his demonstration that the five loyalist units which had not surrendered with Burgoyne amounted to only 485 men in the winter of 1778-79. Flick, Loyalism, p. 110; Siebert, op. cit., VII, 11, 14; Sir John W. Fortescue, A History of the British Army, III, 234n.; Jones, op. cit., I, 678 (ed. notes on Burgoyne).

marching south from Canada. He sent agents into New York to collect provincials. When the campaign began, he issued proclamations, appealing to the loyalists to enlist and promising to support them if they rose against the Whigs.¹ By August Burgoyne became convinced of the minority status of the loyalists. In a communication to Germain, he complained:

The great bulk of the country is undoubtedly with the Congress, in principle and zeal; and their measures are executed with a secrecy and dispatch that are not to be equalled.²

Subjected to examination by Parliament on his defeat, Burgoyne was called upon to explain why he did not attempt a rapid advance to reach Albany. He retorted:

Would the Tories have risen? Why did they not rise round Albany and below it, at the time they found Mr. Gates's army increasing...? Why did they not rise in that populous and as supposed well affected district, the German Flats at the time St. Leger was before Fort Stanwix? A critical insurrection from any one point of the compass within distance to create a diversion would probably have secured the success of the campaign.³

There can be no doubt that a rising of several thousand loyalists would have created a critical situation for the Americans.

1. Siebert, *op. cit.*, VII, 7; A Broadside by John Burgoyne, Esq., 2 July 1777, Broadside, NYHS; Proclamation, 29 June 1777; Diary, 17 January 1794; Philip Skene to Dartmouth, 30 August 1777, Benjamin F. Stevens, ed., Facsimiles of Manuscripts in European Archives Relating to America, 1773-83, Vol. 18, no. 1665; Morris to Council of Safety, 16 July 1777, Jour. Prov. Cong., II, 511.

2. Burgoyne to Germain, 20 August 1777, John Burgoyne, A State of the Expedition from Canada as Laid Before the House of Commons, appendix, xlv1.

3. Ibid., pp. 151-52.

A comparison of the loyalist reaction with the American reveals the validity of Burgoyne's strictures. Governor Clinton advised Washington of the alacrity with which the militia responded to the mobilization order.¹ At the height of the campaign in September, Clinton related to Duane that New York had eleven militia regiments from the region south of Poughkeepsie on active duty and had dispatched to Gates every other regiment in the state except two in Tryon and one in Schoharie.²

The testimony of two other men strongly sustains the preceding evidence. Galloway, when questioned in Parliament, conceded that the New York loyalists could not defend themselves without the British army, even though the British might fully arm and organize them. General James Robertson, who had served in New York from 1765 to 1777, made a similar admission.³

Although the Tories possessed the advantage of an extensive governmental machinery, they lacked the capability of halting the burgeoning revolutionary sentiment and went down to a series of political defeats throughout the colony in 1775. Tryon, Gage and Dartmouth admitted the loss of royal control in New York as the consequence

1. 9 August 1777, Public Papers of George Clinton, First Governor of New York, II, 195-97 (hereafter cited as Clinton Papers).

2. Ibid., II, 344. Nickerson put the total number of militia with Gates at 12,000; some were from New England. Both Patterson and Ward understate the militia units. Hoffman Nickerson, The Turning Point of the Revolution, pp. 326-27, graph opp. p. 384; Samuel W. Patterson, Horatio Gates, p. 167, n. 5; Christopher Ward, War of the Revolution, ed. by John R. Alden, II, 529.

3. Anderson, op. cit., pp. 311, 315.

of the unpopularity of the government. Having lost the confidence of the people, the royal government could only maintain itself by arms. Endeavors to form loyalist associations and to arm the friends of government proved fruitless in the long run. So long as the Tories constituted a minority of the populace, they had little chance of re-¹gaining a position of supremacy.

1. Hamilton, writing to Jay about the impending assembly election early in 1776, commented, "for the Whigs, I doubt not, constitute a large majority of the people." Hamilton to Jay, 31 December 1775, Jay Papers, CUL; Henry P. Johnston, ed., Correspondence and Public Papers of John Jay, I, 41.

CHAPTER III

CRYSTALLIZATION OF THE REVOLUTIONARY SPIRIT

Although opposition to the measures of the North ministry had proceeded on the premise that the Whigs could compel Great Britain to yield the desired reforms, the events of the latter half of 1775 and early 1776 made that premise more and more untenable. The increasing resort to muskets and cannon had a dispiriting effect upon the moderate and conservative leaders in New York. Furthermore, the campaign against the imperial government posed a delicate internal problem for the revolutionary party. Slogans of no taxation without representation and demands for constitutional liberties had a dangerous potential in a province where the great landholders frequently manipulated their tenants' votes. Notwithstanding the caution of the great landholders, some of the revolutionary ferment seeped down to the tenantry, expressing itself in pressure for more favorable land leases. Writing from Dutchess County, Henry B. Livingston conveyed the attitude of the aristocracy when he condemned the renters: "The Tenants here are Great Villains. Some of them are resolved to take advantage of the times¹ and make their Landlords give them Leases forever...."

The sharpening lines of conflict and the consequent Whig

1. H. B. to R. R. Livingston, May, 1775, Unpublished Corr. R. R. Livingston, no. 30.

reaction have given rise to the view that a loyalist reaction had set
 1 in. This interpretation rests on several considerations: the delays in the election of deputies to the Second Provincial Congress and in their attendance; and Tryon's maneuver to convene a new provincial assembly. Whig timidity, however, is another pertinent fact, the examination of which will precede that of the previous elements.

Vacillation grew among the Whigs in consequence of events in July and August, 1775. In July the Continental Congress published its justification for taking up arms and virtually rejected Lord North's conciliatory motion. Immediately thereafter word came from Britain that both king and Parliament had rejected the provincial assembly's overture on conciliation. Since bullets flew near Boston and units gathered at Albany for an invasion of Canada, the prospect of peace receded visibly. The practical meaning of these occurrences came home literally with the crash of cannon when the warship Asia clashed with a party removing cannon from the fort on the night of August 23. Fear of the cannonading set in motion a general exodus of the population which continued in sporadic fashion until the practical evacuation of the city in June, 1776. Haunted by their fear of loss of life and property, many Whig leaders became visibly less belligerent when Tryon and the Tories reminded them of the possibility of a general bombardment of the city.

In fact, some radicals had anticipated such an eventuality back in July and had proposed the seizure of the governor as hostage for the

1. Becker, op. cit., pp. 221-52.

good behavior of the ships. The plan did have much to commend it. It would have spared the people. It would have mitigated the growing fear within the Provincial Congress and reduced the spread of confusion among the general populace. It might very well have put a halt to the arming of the Tories on Long Island. However, seizing the king's personal representative would have put New York in the same position as Massachusetts and placed the members of Congress in the same category as the Adamses and Hancock.¹ The plan had its inception when Sears returned to the city from a visit to the Continental Congress and conferred with Schuyler. Schuyler, characterizing the idea as "rash" and "unjustifiable," argued that the Continental Congress would disapprove. Sears replied that he had discussed it with a number of the delegates who had approved. Only when Schuyler stated that he had written orders from General Washington against it did Sears reluctantly agree to drop the proposal. Schuyler hastened to assure councillor William Smith that he supported the "Magistracy in all cases but where they opposed the Common Defence." The General, while refusing Smith permission to warn the governor, did have the councillor draw up a proclamation for the protection of Tryon. Schuyler incorporated it in a letter of orders to General Wooster,² commander of the Connecticut detachment in the city.

1. Tryon transmitted at this time lists of names of Whigs and Tories to Dartmouth. Tryon to Dartmouth, 5 January 1776, NYCD, VIII, 651.

2. William Smith, *Memoirs*, IV, 3 July 1775, NYPL; Schuyler to Wooster, 3 July 1775, Benson J. Lossing, The Life and Times of Philip Schuyler, I, 346.

It seems probable that the clash with the Asia on August 23 hastened the adjournment of the Provincial Congress, which handed¹ over temporary power to a Committee of Safety on September 2. Tryon discomfited the Whigs when he arranged to have Mayor Hicks inform the Committee that Tryon had word from Dartmouth pertaining to fresh orders for naval commanders. British captains would adjudge towns to be in a state of rebellion where they raised troops, erected² fortifications or removed His Majesty's stores. Actually Admiral Graves sent Captain Vandeput of the Asia similar but more limited orders at the same time. If the city prohibited intercourse with the ships or molested them, Graves ordered Vandeput to open fire. The admiral directed the captain to destroy Sears' house, the houses³ of other known rebels and burn all shipping in the harbor. Although the Committee strove to obtain an extract of the letter from the governor or its "exact purport," their Journal does not refer to the matter again. Two days later, however, Rivington's Gazetteer carried the substance of a part of the letter which conveyed the same⁴ information Hicks had given the Committee of Safety. If Tryon intended to immobilize the Provincial Congress, he very nearly succeeded.

1. Congress's mood was not necessarily the people's mood. The indignant reaction of the populace to the August 23 incident caused Congress to arrange an alternative method of supplying the ships which would keep the crews out of the city. Jour. Prov. Cong., I. 126.

2. Ibid., I. 152. 153.

3. Admiral Graves to Vandeput, 10 September 1775. Cal. H. O. Papers, p. 464.

4. Riv. Gaz., 21 September 1775.

The Whigs did not take the threat of bombardment lightly. Nevertheless, there is strong ground for believing it to have been a bluff. As long as the governor remained in the city, he was, in effect, a hostage who guaranteed the peaceable behavior of the warships. Moreover, the Tories and their property stood in a similar position; in a general cannonading they would suffer as much as the Whigs. The British weighed other factors. A pitched battle in the port might very well raise the political temperature of the province to fever pitch which would render the position of the Tories impossible. The Yorkers would appeal to the Continental Congress and neighboring colonies, and troops would pour into the city. The combination of these factors would drive the ships out of the harbor, and the destruction wrought by the cannon might end¹ the city's usefulness to the British as their headquarters.

News of the impending arrival of Continental troops commanded by General Charles Lee stirred new fears in the city. Tryon underscored his September warning in mid-December with the distribution of a handbill which reprinted a letter from the captain of the Phoenix to the governor. Captain Parker stated that he had orders to treat the town as in open rebellion against the king, if the people resorted to violent acts. When General Lee prepared to march into New York in January, 1776 to fortify the city against an expected British attack, the Committee of Safety reacted with alarm. Eliphalet

1. Nettels, Washington, chap. XI.

Dyer, Connecticut delegate to the Continental Congress, described the atmosphere as he passed through the town homeward bound:

New York appears empty and desolate; you would scarce see any person or but few in the streets carts and waggons all employed in carrying out goods and furniture, the men-o-warr lying broadside against the town and near the wharfs sails bent and prepared at a moment's warning. Their present consternation in New York arises from the near approach of Gen'l Lee....

Notwithstanding the tension, a broadside signed "Sentinel" urged the people to isolate the British ships. The city, declared the author, "becomes more and more the scoff and wonder of America." He concluded with an appeal to the people's patriotism: "Are you so callous and dead to every sense of honour, as to disregard the taunts¹ and scoffs of your brethren in the neighbouring Colonies?"

During his brief tenure in New York, Lee sought to checkmate the British. He countered the menace of bombardment with a threat to retaliate against the Tories, a challenge which the British did not choose to accept. The general charted a bold course when he ordered all communication with the ships halted and removed cannon and stores from the fortifications. Even though Tryon had advance information concerning Lee's plans, the ships did not intervene when the people hauled away the cannon in broad daylight. Complaints from the cautious Yorkers, however, forced Lee's transfer; but in April Washington rebuked the Provincial Congress for tolerating contract between the people and the ships. The Congress thereupon interdicted the traffic and the British made no move to retaliate.

1. Ibid.; Becker, op. cit., pp. 246-50; Parker to Tryon, 18 December 1775, N.Y.G., 25 December 1775; Dyer to Samuel Adams, 28 January, 27 February 1776, Samuel Adams Papers, NYPL; To the Inhabitants of New York, 27 January 1776, Broad sides, NYPL.

Tryon, informing the Colonial Secretary, George Germain of the interdiction, wrote:

The destruction therefore of the city where there were so many friends to Government, with the loss of all their property, & the consideration of preserving the town for the King's army was thought to be too great sacrifices to make for only retarding the removal of the artillery and stores which even after such sacrifices could have been carried off by the Jersey and Connecticut troops.¹

The Committee of Safety did little more than to further the measures already set in motion by the parent body. At one point, indeed, when a combination of some moderates and radicals sought to move vigorously against the Tories, the Committee lost its nerve. Driven by the critical shortage of arms, the Committee had voted to impress all weapons and recompense their owners. Word from Queens soon reached the Committee not only that the Tories refused to hand in their arms, but also that they disarmed Whigs and that the Colden family directed these proceedings. McDougall presented a motion to dispatch to Queens a battalion from his regiment, then raising, to compel acquiescence in the impressment action. After considerable discussion the Committee defeated the proposal.² Hesitancy of this kind characterized the Committee's life.

This timidity in dealing with the Tory problem provoked disgust within the army. Colonel Rudolph Ritzema demanded that

1. Smith, *Memoirs*, V, 11 February 1776, NYPL; Tryon to Germain, 6 April 1776, NYCD, VIII, 674.

2. *Jour. Prov. Cong.*, I, 156. Tryon praised the obstructionist activities of the Coldens. Tryon to Dartmouth, 6 December 1775, NYCD, VIII, 646.

When the Congress reconvened, it disapproved the impressment resolution. McDougall dissented. *Jour. Prov. Cong.*, I, 184.

Congress "confiscate their estates and banish them from the country." Since the colonel wrote from Montreal two days after its capture, his subsequent vehemence may be understood; "Such miscreants ought not to breathe the same air with men resolved to be free. From their machinations in & out of Congress have arisen the hardships we have endured and are further to undergo."¹ If the Committee of Safety heard these grumblings, it gave no sign.

Three days after the rebuff to McDougall, on the Queens affair, September 28, the Committee had an urgent message from the commissioners detailed to construct fortifications along the mid-Hudson. Information had reached them that Tryon and a party had landed at Haverstraw where they questioned closely one of the commissioners about the fort and its strength. The commissioners expected the governor to put in an appearance up-river and asked for a guard. When the Committee answered the letter, it ignored both the news of Tryon's movements and the request for troops.² The next day the officers of the city's militia petitioned the Committee to revise the training regulations so that the companies would train once a week and the battalions once a month. The present routine of once a month, they complained, lacked efficacy. The Committee did not reply; the Journal tersely records, "Read and filed."³ Both moderate McDougall and radical Hugh Hughes complained of the militia situation. The former told Jay that "men of rank and consideration refuse to

1. Ritzema to McDougall, 19 November 1775, McDougall Papers, NYHS.

2. Force, op. cit., 4th Ser., III, 914-15, 919-20.

3. Jour. Prov. Cong., I, 159-60.

accept of commissions as field officers of the militia; so that these commissions have gone a begging for six or seven weeks." Hughes described the lack of drilling among the militia on the ground that the officers without their commissions could not compel them to turn out. "These circumstances," he added, "have a very bad effect, as they encourage the Tories, who exult at it, and discourage the timid Whigs." Congress finally issued the commissions just before its
 1
 collapse.

When Congress reassembled in early October, it sat hardly a week before ill-tidings reached it. Washington warned that no prospect of conciliation existed and that all the evidence indicated the British would prosecute the war with the utmost vigor. The next day the Congress examined Captain Lawrence, a recently arrived ship's master who had sailed from London August 2 and who brought news that more than sustained Washington's interpretation. Informed sources in London said that the ministry planned to hire 16,000 Hessians and Hanoverians for the American campaign and that they intended to increase the army in America to 30,000 over the winter. Within twenty-four hours the delegates listened to three letters from London, dated July 31 and August 7 which concurred in the fact that the government had determined to recover New York, control the Hudson
 2
 and open direct communication with Canada. Scarcely had the members

1. McDougall to Jay, 30 October 1775, Jay Papers, CUL; Hughes to Samuel and John Adams, 17 October 1775, Samuel Adams Papers, NYPL: Jour. Prov. Cong., I, 192.

2. Ibid., I, 170-71, 172-73.

digested this intelligence when Tryon demanded that Congress guarantee his safety. Dissatisfied with the subsequent assurances, the governor shifted his quarters October 19 to one of the vessels in the harbor.¹ Tryon's flight seemed to denote the imminence of bombardment and the seizure of three vessels in the lower harbor, and their escort to Boston by the British sloop Viper tended to confirm it.² Many congressmen now found it urgent to attend to their personal affairs and Congress, lacking a quorum October 28 and 29, adjourned to November 2.

When Congress reconvened on November 2, it heard more grim reports. Dispatches from the Continental Congress contained interrogations of captured British officers who had secretly recruited in New York. The bait offered to enlistees included a promise of 200 acres of forfeited lands in settled areas of the province, a promise authorized by Lord Dartmouth.³ That afternoon the Congress listened to a letter from Washington which contained an eye-witness account of the burning of Falmouth by the British. Furthermore, the British commander reportedly told the inhabitants he had orders to burn all towns between Boston and Halifax and he expected that his compatriots had put New York to the torch.⁴

1. Becker, op. cit., p. 225.

2. Riv. Gaz., 26 October 1775.

3. Jour. Prov. Cong., I, 188-90; Captain M. Maclean to Major John Small, 13 December 1775, Force, op. cit., 4th Ser., IV, 312-13.

4. Jour. Prov. Cong., I, 191.

Two actions of the Congress tell of the impact of this disconcerting news. On November 2 the provincial body rejected a request of the Continental Congress to appropriate the shirts, blankets and sheets in the King's stores. Although some persons had carted them to the provincial commissary's house without congressional authority, the New Yorkers declared that they had ordered them returned because they feared retaliation by the warships. The next day Congress disposed of another delicate matter relating to Westchester. Whigs of Rye and Mamaroneck writing to New York in alarm, had charged the Tories with plotting to seize a number of leading committeemen and to put them aboard a British tender for transport to Boston. Although Congress had provided by its resolutions of September 1 for the arrest, trial and imprisonment of dangerous opponents by the district and county committees or the Congress itself, it turned its back now on its former directive and voted to instruct the Westchester County Committee to investigate the affair. If the plot were real, then the committee would furnish protection to those threatened. Congress recommended that any culprits taken be handed over to the civil magistrates for prosecution. This last proposition proved too much for not only Isaac Sears, but also for John Thomas, Jr. and Dr. Robert Graham of Westchester and Melancton Smith of Dutchess, all of whom¹ dissented from it. By November 4 so many representatives had left that the Congress ceased functioning without formal adjournment.

1. Ibid., I, 190, 192-94.

McDougall complained to Schuyler that this hasty dissolution endangered the colony, since Congress had not established a Committee of Safety.¹

Tory comment not only accurately reported this vacillation, but also revealed one of its sources. V. P. Ashfield, a Tory merchant, noting the influence of property on the political situation, advised Isaac Wilkins that "those of prosperity are afraid of their estates, and are coming about fast. They say they have gone too far."² Jacob Walton, another Tory, spoke of the leaders "growing very timid," and added significantly, "but now they have raised the devil amongst them they do not know how to lay him."³

The Second Provincial Congress which assembled in December was just as timid as its predecessor. Hughes wrote Sam Adams that "the people [are] constrained, disappointed and discouraged here by the timidity or treachery of their leaders."⁴ A writer in the New York Journal berated the cowardly, the do-nothings, and called for "activity, vigilance and resolution."⁵ The hesitancy of some Whigs led them to urge Holt not to reprint Paine's Common Sense. In

1. McDougall to Schuyler, 14 November 1775, McDougall Papers, NYHS and Schuyler Papers, NYPL.

2. Ashfield to Wilkins, 4 November 1775, Cal. H. O. Papers, p. 482. See also the similar comments of John Cruger to Henry Cruger, 1 November 1775 and Harris Cruger to Henry Cruger, 3 November 1775, ibid., pp. 479, 481.

3. Partially quoted in Becker, op. cit., p. 226, n.205; Cal. H. O. Papers, p. 478.

4. Hughes to Adams, 19 December 1775, same to same, 8 January 1776, Samuel Adams Papers, NYPL.

5. "The Monitor", no. 7, N.Y.J., 21 December 1775.

describing this incident Hughes wrote:

Another anecdote I must trouble you with, is, that Col. McDougall waited on Mr. Holt and desired that he would not reprint 'Common Sense'; the people's minds not being prepared for such a change &c. Somebody else, I forgot who, waited on him for the same purpose. The contrary is so much the case, that the people are constantly treading on their leaders heels, and, in a hundred cases, have taken the lead of them. But his patrons don't approve of it, and he must beat time with them. Phil [Livingston] says it was written by some Tory &c. However, let them say and do what they please, the people are determined to read and think for themselves. It is certain, there never was any thing published here within these thirty years, or since I have been in this place, that has been more universally approved and admired.

None of these events came as a response to an upsurge of Tory sentiment among the people, but rather illustrated the working of the powerful emotion of self-preservation.

At first glance the polling for the Second Provincial Congress and the laggardness of the deputies in assembling for Congress's opening seem to lend credence to the idea of a royalist reaction, but a closer scrutiny will disclose the fallacy of this view.² One author pointed out that the people went to the polls in only nine of the fourteen counties; and that, of the nine, in Orange only one precinct voted, and that in Tryon a newly chosen deputy resigned and his successor did not appear until February.³ In Orange factionalism may have complicated the situation. Although two precincts had

1. Hughes to Samuel and John Adams, 4 February 1776[?], Samuel Adams Papers, NYPL. John Anderson, publisher of a new gazetts, the Constitutional Gazette, reprinted Common Sense in pamphlet form.

2. Becker, op. cit., pp. 229-38.

3. Ibid.

voted on November 7, Goshen precinct complained that the county committee, "through some unhappy mistake," had failed to notify the people of the election. Goshen hastened to rectify the omission, leaving Orange Town as the only precinct in which no balloting had taken place. The two precincts of Orange Town and Haverstraw had a joint precinct committee, but the latter chose delegates November 7, while the former did not. The freeholders and tenants held several meetings in Orange Town prior to election day, but on the vital day, due to "some misapprehension" as the precinct chairman said, no polling occurred. Two days later, November 9, Chairman Thomas Outwater, entreated Congress to set aside another day for the precinct to vote, but that body did not read the letter until December 1, so that the delay did not wholly lie with the township. When Orange Town cast its ballots December 7, completing the precinct voting, the whole county, therefore, had taken part in the electoral process.

The Whigs seem to have organized the election in Tryon as well as in New York and Albany. The county committee notified each district of the impending election, but confined the vote to freeholders.² Although the electors chose two deputies, one, Isaac Paris, resigned shortly after to assume the chairmanship of the county committee. On November 25 the county committee selected William Wills to replace Paris and dispatched him immediately to New

1. Jour. Prov. Cong., I, 213, 214, 225; II, 95; Force, op. cit., 4th Ser., III, 1762, IV, 385, 399, 402.

2. The First Provincial Congress had extended the suffrage to tenants having realty assessed at £80. Becker, op. cit., p. 227.

York. Wills's failure to arrive in the city became the subject of correspondence between the Congress and county committee. The latter expressed its astonishment at Wills's dereliction, mentioning that it had information that Wills had departed as instructed. Furthermore, the committee did not know what had happened to him. The delinquent delegate appeared at the Congress two months later.¹ Whatever reason caused the delay, the promptness with which the committee held the election and the alacrity with which they picked Paris's successor refute the idea of any cooling toward the revolutionary cause. It may be that this incident illustrates the difficulties inherent in operating a revolutionary organization in the isolated rural areas of the province.

Of the five counties (Richmond, Queens, Cumberland, Charlotte² and Gloucester) in which the people supposedly did not elect deputies, the situation in the latter three compounded communication difficulties, factionalism and the Vermont controversy between New York and New Hampshire. Through some miscarriage of the correspondence the

1. Frey, op. cit., pp. 89-90; Jour. Prov. Cong., I, 212, 213, 293. II, 142; Force, op. cit., 4th Ser., IV, 400.

2. Becker, op. cit., pp. 234, 236-37 treats this occurrence in confusing fashion. The delegates in New York dispatched the letter of December 1, which posed the drastic consequences of a congressional collapse, to three counties (Tryon, Cumberland and Charlotte), not to six. Although the letter writers could not have known it, their warning was unnecessary. As the material on the preceding and subsequent pages shows, the people of these counties did not deliberately drag their feet. It was not the letter that produced the delegates from these three counties as Becker contends. Furthermore, the arrival of Dr. John Williams from Charlotte on 13 February 1776 reduced the number of unrepresented counties to two, Gloucester and Queens, not three. Jour. Prov. Cong., I, 199, 297.

Cumberland committee did not receive the Congress's notice of election, nor did it hear of it from its delegate in New York. The first intimation of it came through the New York Journal of October 19 which printed the text of the resolution. Some of the committeemen desired to hold the election on the newspaper's authority, but most wished to have official word from Congress. When they wrote Congress for advice, they affirmed the steadfastness of the county: "the people in general among us, want to choose new members; and are always ready to adhere strictly to the resolves of...Congress...." Since Congress had already adjourned, Cumberland waited in vain for a reply. Finally, the committee, acting on its authority, appointed two delegates¹ to Congress.

Similar delays occurred in Charlotte and Gloucester. Despite the friction with Yankee settlers over land rights, Charlotte in an election on January 25, 1776 chose two representatives for the Provincial Congress.² Although Gloucester had established district and county committees by July, 1775 and had chosen a deputy to the First Congress, the fear of an attack from Canada deterred congressman Bayley from attending. Undeterred by the uncertainty of communication

1. Writing to Congress at the beginning of February, 1776, the committee declared that the people were "heartily disposed" to American liberty. Force, op. cit., 4th Ser., IV, 426n.; Jour. Prov. Cong., I, 331, II, 99. Factionalism reared its head in matters relating to the organization of the militia and the choice of militia officers. Force, op. cit., 4th Ser., IV, 309; Cal. Hist. Mss., I, 195-98, 204.

2. Jour. Prov. Cong., I, 297. On the land dispute and factionalism see Duer to Peter V. B. Livingston, 2 June 1775, ibid., I, 71-72 and Judge R. R. Livingston to R. R. Livingston, Jr., 18 May 1775, Unpublished Corr. R. R. Livingston, no. 44.

On the complicated political split in these counties, see Chilton Williamson, Vermont in Quandary, 1763-1825, chapters IV, V.

with New York, the county committee took the initiative in circulating the Continental Association which everyone signed. Furthermore, Bayley complained in October that notwithstanding the silence from Congress, the people had commenced the organization of their militia, using the form suggested by the Continental Congress. Under the illusion that the First Congress was still sitting, Bayley promised to attend that winter, "if health permit." In view of this isolation, it is not surprising that the county seems not to have held an election for the Second Congress; probably the people did not hear of it until late in the spring. The wonder is that the county created¹ an effective Whig organization.

Kings County may, or may not, have held an election. Eight days after the opening of the Second Congress, the members present, lacking a quorum, wrote a letter to the "members chosen to represent Kings County," pressing them to attend. The next day, November 23, a Kings deputy appeared, but when the Congress commenced deliberations December 6, only one Kings member attended. Although the house read and formally recorded all election certificates, they did not mention Kings County. Moreover, even though Orange could claim only one delegate from Goshen precinct, the house seated him, but with the provision that he have no vote until his county had a quorum. The meticulous action in relation to Orange renders the silence on Kings even more puzzling. When a second Kings representative arrived in the city on December 8, the county cast its vote in the first formal

1. John Taplin to P. V. B. Livingston, 15 July 1775, Jacob Bayley to Provincial Congress, 20 October 1775, Jour. Prov. Cong., I, 95, II, 96.

division entered in the Journal, but the official record does not refer to the seating of the delegation nor to receipt of its election certificate. The reference of Congress's letter of November 22 does seem to indicate that the county did have an election, but there is no explanation for the omission in the Journal. Possibly it was the result of clerical oversight. For example, although William Smith's Memoirs contain a brief summary of Thomas Smith's account of Congress's proceedings of the afternoon of December 13, 1775, the ¹ Journal does not record Thomas Smith as present.

Of the fourteen counties, then, only two (Richmond and Queens) refused to choose deputies, and since they had always been strongholds of Tory sentiment, their refusal did not represent any shift in political loyalty. No doubt the equivocation of the Congress in regard to the Tories during the preceding months had fatally affected the weak Whig organization in both counties. Nevertheless, the action of two Tory counties cannot be construed as evidence of a general loyalist reaction. McDougall's explanation of the Congress's predicament largely confirms the foregoing:

This [bare quorum] is owing to the tardiness of the Deputies of the New Counties [Tryon, Charlotte, Cumberland, Gloucester], who are not come down. And to the machinations of the Tories, who have so wrought on the Fears and Jealousies of the Counties of Richmond and Queens, that the Former has not chosen any deputies; and the Latter has Voted against any being Sent,.....²

1. Ibid., I, 198, 199, 205-206, 207-208.

2. McDougall to Schuyler, 7 December 1775, McDougall Papers, NYHS. McDougall's reference to machinations and fears may not have been imaginary. A letter to the New York Journal early in the year had

Those who see evidence of a rising loyalist tide also point to the circumstances surrounding the complicated Tory stratagem of having the Provincial Congress approve a meeting of the assembly. The irresolution of the Whigs in the fall of 1775 cost them the political initiative and exposed them to the possibility of a major political defeat. Perspicacious William Smith evolved a two-pronged maneuver which ostensibly aimed at conciliatory negotiations with Britain, but which substantially sought to break the continental union and to re-establish the government's control over New York. The first step envisaged instructions by the Provincial Congress to the New York representatives at the Continental Congress to move new conciliatory proposals. In preparing these proposals for presentation to the Provincial Congress, Smith sought to attract enough moderate and conservative votes to secure the adoption of the recommendations by the New Yorkers, but to ensure either their rejection by the Continental Congress or New York's freedom of action. The result of approval or disapproval by the "grand Congress" would be a meeting of the New York provincial assembly to debate Lord North's motion of

described the tactics used by the Tories to prevent the formation of a Whig committee in Jamaica. The Tories circulated a statement to which they solicited signatures, opposing the election of the committee. "A Lover of Liberty" charged that the Tories told people the proposed committee would be authorized to break open their houses in search of tea; that the committee would break their molasses jugs; that if they did not sign the statement, they would be adjudged enemies to the king and might be hanged. N.Y.J., 9 February 1775.

Even after the crushing defeat of the Queens Whigs in the election of November, 1775, printer John Holt still insisted that the Tories did not number one-third of the Queens population; that those who voted for them were "dependant upon, or under the influence" of their social superiors. Ibid., 28 December 1775.

February 20. Smith cannily incorporated a provision which he had suggested previously in June to the First Provincial Congress for its abortive attempt to have the Continental Congress initiate negotiations.¹

Smith's previous suggestion had centered on the formation of a permanent continental congress to apportion the colonies' shares of funds requisitioned by Great Britain. Elaborating on this idea now, he proposed that Britain consider such monies as a gift; that Parliament account for their expenditure for national defense; and that Parliament also report on the expenditure of the funds arising from the regulation of commerce. While the colonies sustained the costs of civil government, no official of the province might receive "any other pension or provision." Smith recommended as immediate steps that the Continental Congress urge that all the colonial assemblies convene to petition the crown and parliament, and avoid "as much as possible everything that tends to irritate or offend in asserting the essential Rights and Privileges of His Majesty's American Subjects:" and that it declare what parts of the parliamentary

1. Dorothy R. Dillon, The New York Triumvirate: A Study of the Legal and Political Careers of William Livingston, John Morin Scott, William Smith, Jr., pp. 139-40. The June instructions to the York delegates included: repeal of the obnoxious legislation; limitation of colonial assemblies to three years; Parliament's surrender of its right to interfere in colonial religious affairs; complete internal colonial autonomy subject to the crown's veto; all duties raised by regulation of trade to be paid to the colonies; all funds to be raised for defense to be voted by a continental congress. The deputies from New York never presented the plan. Becker, op. cit., pp. 214-15; Sabine, op. cit., pp. 224-25, 228b.

Smith formally described his purpose to Tryon after these events had occurred: "I confess that I flattered myself with hopes that this Province might have been induced by Your advice to set an example to the rest, for a return from their wanderings in that wide field of discontent opened by the Continental Congress in 1774." NYCD, VIII, 653.

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resolution of February 20 it would accept. Once the disputants resolved the question of taxation, Congress would rescind the Continental Association and Parliament would pass a general act of "oblivion and indemnity." The colonists would express their readiness "to place an intire confidence in parliament" for the redress of their other grievances. The last provision of the plan revealed Smith's major intent, for it reserved to each colony the "liberty to pursue any "measure...that may facilitate the designed Reconciliation not inconsistent with the Plan of Contract to be concerted and recommended to them by the Continental Congress." Since the sole power and authority of the Congress would consist of matters of taxation, New York would have a free hand to make her own peace with the ministry.

2

If the Continental Congress defeated a New York motion on conciliation, Smith might plausibly appeal to the Whigs to agree to a meeting of the provincial assembly. The assembly would consider

1. Since the Continental Congress had rebuffed Lord North's proposition in July and had learned in November of the king's refusal to receive their Olive Branch petition, it was highly improbable that they would consider another petition. Inasmuch as Smith's ideas represented a retreat from Congress's statement of July 31, the likelihood of a cordial reception for them was extremely remote. Edmund C. Burnett, The Continental Congress, pp. 95-97; Worthington C. Ford and Gaillard Hunt, eds., Journals of the Continental Congress, II, 224-27 (hereafter cited as J.C.C.).

2. William Smith, Memoirs, V, 30 November 1775, NYPL; Sabine, op. cit., pp. 244-47. Smith admitted indirectly that this was the case when his plan failed. Upon learning that the Provincial Congress had repudiated any separate negotiation, Smith wrote: "for it was resolved that the latter [i.e., Continental Congress] only should declare upon all terms of Reconciliation & thus the former [i.e., Provincial Congress] became meer executive Instruments." Memoirs, V, 14 December 1775.

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Lord North's motion. An independent memorial from the colony on this matter after its rejection by the Continental Congress would stir up dissension among the colonies, discredit the Provincial Congress, and open the door to restoration of the governor's authority.

Smith's plan owed its inspiration to a letter from delegate John Alsop, conservative and future loyalist which suggested that the New York Congress instruct its representatives in Philadelphia to
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introduce pacificatory measures.

The arrival of Alsop's letter presented William Smith with his opportunity. Smith and his brother Thomas, a member of the Provincial Congress, had striven for some time without notable success to persuade John Morin Scott to moderate his views. When

1. Smith's sincerity in advocating another petition by the assembly is a moot point in view of the preceding events. It will be recalled that the administration's supporters had made a great deal of noise over their decent and constitutional appeal to king and Parliament in the spring, practically acting upon the unofficial invitation of the ministry. The refusal of the British, therefore, to even receive the assembly's petitions came as a sharp slap in the face not only to the Tories but also to the conservative and moderate Whigs. On what basis did Smith expect a different reaction now? Lord North's resolution did not offer negotiation; it required submission on specific terms. Moreover, by December the whole atmosphere had altered. In August the king had proclaimed the Americans to be in rebellion. The succeeding months had witnessed the rejection of the Olive Branch petition and the acceleration of measures designed to crush the rebellion by arms. Given Smith's acute political perception, it is difficult not to conclude that the petition was secondary to the aim of re-asserting the government's authority. On the moderate attitude, see Jay to McDougall, 8 december 1775, McDougall Papers, NYHS.

2. Apparently Smith was already thinking along these lines. Under date of November 25 he recorded counselling Tryon to make public his permission to return to England. *Memoirs*, V, 25, 28 November 1775; Sabine, *op. cit.*, pp. 242, 243.

Scott informed Thomas Smith of the receipt of Alsop's letter, Smith exhorted him to introduce the necessary resolution at the opening session of the Second Congress. Scott consented conditionally, insisting that Smith prepare the draft. William Smith, however, composed the resolves which Thomas Smith gave to Scott.¹ Councillor William Smith ran into strong opposition when he broached his plan to Tryon and some of the governor's council on December 1. In his Memoirs he discreetly avoided disclosing the substance of the talk, but the opposition subsided when he placed his formulation on this basis: "Suppose says I it procures a constitutional application to Parliament upon the controverted subjects in a more moderate tone." The "constitutional application," of course, was an assembly petition. Shortly thereafter Smith handed Tryon the draft of a letter to the people in which the governor intimated his desire of having the assembly examine Lord North's resolution. Dated December 4, Tryon's letter appeared in the newspapers in modified form.² The Tories had launched their trial balloon, and William Smith busily guided it.

On the one hand, William Smith consolidated opinion among the city magistrates for having another meeting of the assembly, while on the other, his brother sounded out feeling in the Provincial Congress for new instructions to the colony's representatives at

1. Smith, *Memoirs*, V, 1 December 1775; Sabine, *op. cit.*, p. 243.

2. Smith *Memoirs*, V, *loc. cit.*; Sabine, *loc. cit.*; *Const. Gaz.*, 6 December 1775. Tryon explained to Smith that he could not use the letter as drafted because he feared the other governors might accuse him of being in league with "the People."

Philadelphia. Having obtained a favorable response, Thomas Smith arranged a private meeting of ten members of the Congress and his brother at Simmons Tavern on December 7.¹ Before attending the meeting, William Smith submitted the draft instructions to Colonel Edmund Fanning, Tryon's son-in-law, who read and approved them. Most of the discussion at the tavern revolved around the terms of the conciliatory proposals. When some members suggested that McDougall would never consent to the presently constituted assembly taking up the North resolution, William Smith assured them that the governor would not insist upon it, but he, nevertheless, argued against electing a new assembly. Encouraged by the expressions of support, Thomas Smith declared he would introduce the resolutions in Congress² the next day.

Instead of moving for new instructions to the delegates at the Continental Congress, Thomas Smith presented four resolves to the Provincial Congress: (1) that Gage had begun hostilities without waiting for colonial consideration of Lord North's motion and that New York had borne arms in self-defense; (2) that New York boasts the "most unshaken loyalty," the "warmest attachment" to the crown and "an ardent desire to maintain the ancient union of the two countries"; (3) that the Congress "conceive it highly necessary and expedient" for the king to have the colony's opinion on the North resolution

1. William Smith, *Memoirs*, V, 5, 7 December 1775. The ten deputies were Nathaniel Woodhull, John Sloss Hobart and Ezra L'Honmedieu of Suffolk, John J. Bleecker, Leonard Gansevoort, Jacob Cuyler, Francis Nicoll, and Robert Van Rensselaer of Albany, John Van Cortlandt of New York, and Gilbert Livingston of Dutchess.

2. *Ibid.*, V, 6, 7 December 1775.

"in such a way as his Excellency may conceive to be most constitutional" and that the Congress consider the governor's letter as "proceeding from an anxious desire for a reestablishment of...harmony"; (4) that the Congress desire Tryon to return to his residence in the city and will guarantee his safety.¹ Since these resolves were preliminaries to the instructions, they were presumably intended to create favorable sentiment among the members for conciliation, to lay the basis for conveying the assembly should the Continental Congress reject conciliation, and to reassure the governor as to the attitude of the Provincial Congress.

Thomas Smith erred seriously when he neglected to assure himself of Scott's support before introducing his resolves.² The introductory motion precipitated an acrimonious debate, in the course of which Scott teamed with McDougall and Hobart to oppose Smith. Scott severely castigated Governor Tryon for accusing the people in his December 4 letter of withholding "their allegiance from their sovereign and their obedience" from Parliament. The trio also criticized the assembly and demanded its dissolution.³ It is likely that the house would have defeated Smith's motion, but the delegates

1. Becker, op. cit., pp. 239-40; Jour. Prov. Cong., I, 210-11.

2. Although Scott was a key figure in the Congress and had possession of a copy of William Smith's draft, Thomas had not invited him to the consultation at Simone Tavern. William noted noncommittally that Thomas had not consulted Scott on the introductory motion. Smith, Memoirs, V, 8, 13 December 1775; Sabine, op. cit., pp. 252, 253, 256.

3. Smith, Memoirs, V, 4, 8, 13, 31 December 1775; Sabine, op. cit., pp. 252, 253, 256.

from Albany, Dutchess and Ulster took refuge in the rules of procedure¹ which enabled them to postpone further debate for five days.

Thomas Smith sought to repair the damage the next day, December 9, by presenting a motion to appoint a committee to draft a letter to the representatives at Philadelphia instructing them on measures to be taken "in this alarming state of our affairs." The general nature of the motion won unanimous approval and the deputies referred it to a committee of Scott, Hobart, Smith, Gansevoort, Gilbert Livingston and Abraham Brasher.

When Congress re-opened the debate on Smith's resolves on December 13, Hobart proposed an amendment to Smith's motion which rebuked the governor and placed the responsibility for the crisis on the ministry's shoulders. The amendment contained five resolves: (1) that none of the people have renounced their allegiance to the king or desire independence; (2) that the colonies have taken up arms to defend their rights and privileges against "the arbitrary and tyrannical encroachments of His Majesty's Ministers"; (3) that though "this colony" had recourse to committees and Congress to secure redress of their grievances, the people do not desire to oppose the legislature, but insist upon their right to continued representation therein; (4) that the government's failure to convene the assembly this season has caused uneasiness among the people; (5) that Congress thinks there is no danger of "insult or interruption" to either of the

1. Rule 10 stated: "That no question shall be determined on the day that it is agitated if three counties shall request that it be deferred to the next day." Jour. Prov. Cong., I, 206, 211.

branches of the legislature, and that it would be extremely agreeable to the people to have the assembly meet to consider the "present unhappy controversy."¹ The debate on Hobart's amendment produced heated exchanges. Smith remarked that the first part of the fifth resolution was similar to his own motion for guaranteeing the governor's safety. Whereupon Hobart answered that Congress might arrest Tryon without breach of faith. Since Colden could legally replace the governor, the legislature could proceed without "interruption." The speaker declared "impudently" that he had drawn the clause in that form to trap the governor.² The vote on the amendment overwhelmed Smith, for only one county, Kings, voted against it and one, Orange, divided. The house then held the amendment for further consideration by voting on it paragraph by paragraph. When the voting was finished, Smith had won his major point: it would be extremely agreeable to the people to have the assembly sit. On all the other resolves Smith suffered a sharp reverse, and the volleys of invective had so exacerbated tempers that the ultimate fate of the motion remained in doubt.

Indeed the following day's session demonstrated how the struggle over the amendment had fused the radicals, moderates and most of the conservatives into a determined opposition. This temporarily

1. Becker, op. cit., p. 240; Jour. Prov. Cong., I, 212, 217. The committee appointed December 9 to draft the letter to Philadelphia, never reported.

2. William Smith, Memoirs, V, 13 December 1775; Sabine, op. cit., p. 253. Scott dissociated himself from Hobart's "trap the governor" remarks.

united group deprived Smith of his partial victory in the previous day's debate. Reflecting this new vigor, Isaac Roosevelt, a conservative from New York City, offered further amendments to the first two resolutions which broadened their scope in harsh tones to include Parliament. His motion charged that the sole sources of the supposed present turbulence are the "oppressive acts" of Parliament, "devised for enslaving His Majesty's leige subjects," and the "hostile attempts of the Ministry to carry those acts into execution." Roosevelt's amendment carried unanimously, for all counties voted for it. When Scott and McDougall finished obliterating and transposing words in the third resolution, they barely left the door ajar for another session of the assembly. They declared that the people do not wish "to disuse...the ordinary course of legislation, but... highly esteem their right of being represented in General Assembly." This, too, carried unanimously. Hobart moved that the whole fourth paragraph be expunged; his motion carried with no county dissenting. The fifth resolve met the same fate, although its demise spanned two motions. Haring of Orange, seconded by Sands of New York, proposed to delete the latter half of the fifth which welcomed a meeting of the legislature. When put to a vote, only Kings opposed it, but Roosevelt recorded his dissent from the New York City ballot. Sands then spoke for the disposal of the rump and only Kings voted against it. ¹

1. Becker, *op. cit.*, pp. 240-41; *Jour. Prov. Cong.*, I, 217-18. Although William Smith states that his brother quitted Congress in disgust on the fourteenth, the *Journal* does not record him present either the afternoon of December 13 or at any time on December 14.

Having administered a stinging admonition to the governor and the Tories, the house proceeded to other business.

The dinner intermission that day must have encompassed further conversation on the debates because when Congress reconvened in the afternoon, the moderates re-opened the subject. Scott took the floor to present an additional proposition:

that nothing of a salutary nature can be expected from the separate declaration of the sense of this Colony on the Resolution of the House of Commons on the 20th February last; and that as the motion whereon the scheme was grounded was confessedly framed to disunite the Colonies, it would be highly dangerous and totally inconsistent with the glorious plan of American Union, should this Colony express their separate sense on the above-mentioned supposed conciliatory proposal....

All the county votes were affirmative, except Orange which divided. ¹

McDougall concluded the business by moving

that this Colony is fully and effectually represented in the Continental Congress for the purpose of expressing the sense of its inhabitants on any overtures for a reconciliation, and that the Continental Congress has fully and dispassionately expressed the sense of the inhabitants of this Colony on the above-mentioned Resolution....

All the counties approved this resolution, but Roosevelt and Cuyler registered their disapproval. When the resolutions passed their third reading on December 15, the conservatives cast their last negative votes. Van Zandt, Roosevelt and Beekman of New York, Van Derbilt and Covenhoven of Kings, and Cuyler of Albany voted against the fourth and fifth resolutions and opposed the publication of any

1. Becker, op. cit., p. 241; Jour. Prov. Cong., I, 219. Roosevelt, Cuyler and Hay entered their dissents to their counties' votes.

¹
of them.

William Smith attributed the defeat of his proposals to the machinations of Scott, McDougall and Hobart who, seeing "a spirit of moderation would be inauspicious to their private aims, of gaining seats in the new Assembly, and" who, "by working upon the general jealousies of the main Body, and the ambitions of some members who had ends similar to their own,"² defeated the resolves. In his private notes Smith ascribed the defeat to the arrival of news from Philadelphia and Canada on the evening of December 8. From the former came the Continental Congress's acerbic response to the royal proclamation on rebellion which denied that the Americans were rebels, but opposed the "exercise of unconstitutional powers, to which neither the Crown nor Parliament were ever entitled."³ Reports from Canada spoke of further military successes after the fall of Montreal.⁴ Although the news of these events may have stiffened the opposition, it arrived in New York after intemperate argument had occurred in Congress.

There is, however, another relevant factor in this affair which Smith glossed over in his letter to Tryon. He referred to his brother's resolutions as "incautiously framed," and a comparison of

1. Ibid., and p. 220. See the comments of McDougall to Jay, 14, 18 December 1775, Jay Papers, CUL and Jay to McDougall, 8 December 1775, McDougall Papers, NYHS.

2. Smith to Tryon, 17 December 1775, NICD, VIII, 653.

3. Quoted in Burnett, Continental Congress, p. 117.

4. Smith, Memoirs, V, 13 December 1775; Sabine, op. cit., p. 253.

them with Tryon's letter to the people will demonstrate the truth of this under-statement. Although the governor had expressed the wish to have the people's opinion of the North resolution and to have peace, he had concluded his letter with the implication that the Whigs had indulged in treason. In this context Thomas Smith's propositions possibly evoked the image of the dangling halter in the minds of some Whigs.

Thomas Smith phrased his motion in more than conciliatory language. His first resolution ignored the North policies of 1773-75 as the cause of the American unrest, and sought to create the impression that Gage's expedition was the origin of the troubles. If this were correct, what would Smith say about those who have advocated the formation of committees and congresses before April, 1775? Would the government treat them as restless and turbulent characters? The second resolution conceded that the conduct of some "would countenance a charge of withholding their allegiance from their Sovereign," although it added, "it must be attributed to an apprehension that all protection was withdrawn from them." Nevertheless, it did lend color to Tryon's accusation of treason. The third resolution praised the governor's initiative as indicating both his affection for the people and his "anxious desire for a reestablishment of that harmony that has been so long interrupted by the misrepresentations¹ and artifices of evil and designing men." Did this last phrase to the DeLancey faction or to the moderates and radicals? As phrased, these proposals seemed to bear the aspect of an invitation to

1. Ibid., p. 252; Jour. Prov. Cong., I, 210-11.

approve Tryon's judgment of the Whigs. Furthermore, since Scott and Hobart had either read or heard the gist of the draft instructions, these unrelated resolves must have aroused suspicions as to Thomas and William Smith's role. It is not surprising that "Congress was¹ thrown into great heats" and that the plan was rejected.

Although the radical and moderate Whigs might well have congratulated themselves upon their resounding victory on the floor of Congress, William Smith was not yet ready to concede the battle. Since the resolutions provided at least indirectly for a meeting of the assembly, Smith counseled Governor Tryon to act upon the hint. Taking account of the congressional diatribes against the prerogued legislature, William Smith advocated the election of a new assembly:

The dissolution will enable men of temper, to testify their disapprobation of the present violence, under a popular and safe cloak form a confederacy to correct and undermine the tyranny erected over the colony, turn the eyes of the multitude to a power that is constitutional, and favor future overtures for the restoration of harmony....²

When Tryon put the issue to the council, a majority favored a³ dissolution. Although the governor tried to conceal his termination of the legislature, not even informing his council, he failed to

1. Smith, *Memoirs*, V, 13 December 1775; Sabine, *op. cit.*, p. 253.

2. Smith to Tryon, 17 December 1775, quoted in Becker, *op. cit.*, p. 241; Smith, *Memoirs*, V, 17 December 1775.

3. *Ibid.*, V, 23, 26 December 1775. DeLancey, Cruger and Horsmanden opposed dissolution, at least until the legal life of the assembly had expired. In the face of this opposition the governor declared he would use his own discretion as to the precise date of dissolution.

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deceive the Whigs. They took prompt steps to wage an energetic
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 campaign to ensure the election of a Whig assembly.

By means of handbills and the newspapers the Whig propagandist warned the people of the consequences of a corrupt legislature and of Tory guile to divide the colony. "A Citizen," urging vigilance by the people, maintained that the administration had prepared the election as a trap. Avoid the snares, elect independent men of integrity, he concluded. "A Poor Man" wrote that a corrupt assembly would make dangerous concessions to the North ministry, and that the people therefore should unite to choose "good, steady friends" to their liberties. "Philo-Demos" asked the citizens to examine carefully the candidates' principles and warned that secret
3
 enemies were worse than avowed opponents.

On another front the Committee of Safety warned the county committees not to be "taken unaware & surprized into an Election without Time to Consult & prepare for it," to hold caucuses of "leading friends to liberty" to choose candidates of "zeal, spirit and integrity."

1. Smith records that Tryon had not informed the council of his action on December 30. The secrecy would have hampered the organization of an effective campaign by the Whigs in the rural districts and a small vote would have enhanced the odds of a Tory victory. Ibid., V 31 December 1775.

2. Becker, op. cit., p. 242 states the election aroused "little interest," but the Whig activity belies such an interpretation.

3. To the Freeholders and Freemen of New York by "A Citizen," 29 December 1775, To the Citizens of New York by "A Poor Man," 30 December 1775, To the Electors of New York by "Publicola," 6 January 1776, Broadside, NYPL; "Monitor," no. 10, NYJ., 11 January 1776; "Philo-Demos," Const. Gaz., 6 January 1776; Schuyler to McDougall, 11 January 1776, McDougall to Schuyler, 17 January 1776, McDougall Papers, NYHS; Hamilton to Jay, 31 December 1775, Jay Papers, CUL.

and to spare no "care & pains" to elect them.¹ Desiring to leave as little to chance as possible, the Committee of Safety in a second circular to the counties emphasized the necessity of prompt attendance at the meeting of the Provincial Congress February 1, so that Congress could "ave a corrupt Assembly."²

The election resulted in an overwhelming victory for the Whigs,³ who won twenty-four seats to four for the Tories.⁴ In the capital, the Tories had not even put up a slate.⁴ Whigs won the two seats in

1. Jour. Prov. Cong., I, 236; Committee of Safety to Chairman, Tryon County Committee, 2 January 1776, Schuyler Papers, NYPL; Force, op. cit., 4th Ser., IV, 1020-21.

2. Becker, op. cit., p. 242.

3. Thirteen of the Whigs were members of the current Provincial Congress. The previous assembly had thirty-one seats, but the newspapers report the names of only twenty-eight victors. There is no report from Cumberland and only one name from Orange. There is no mention of Charlotte and Gloucester Counties.

The four Tories are Oliver DeLancey of Westchester, Seaman and Billop of Richmond and John Alsop of New York. The Whigs nominated the latter as a conciliatory gesture.

The Whigs are: Philip Livingston, Jay, and McDougall of New York; John Leffertse and Couwenhoven of Kings; Blackwell and Samuel Townsend of Queens; N. Woodhull and William Smith of Suffolk; John Thomas, Jr. and Lewis Morris of Westchester; Pierre Van Cortlandt of Manor of Cortlandt; P. R. Livingston of Manor of Livingston; R. R. Livingston, Jr. and Dirck Brinckerhoff of Dutchess; Abraham Yates, Jr. and Robert Van Rensselaer of Albany; Abraham Ten Broeck of Manor of Rensselaer; Christopher Yates of Borough of Schenectady; Paris and Moore of Tryon; George Clinton and Charles DeWitt of Ulster; John Haring of Orange. N.Y.P., 22 February 1776.

The account of the Whigs' victory in New York City triumphantly concludes: "What think ye of our New York Tories now?" Const. Gaz., 3 February 1776.

4. Becker, op. cit., p. 242. The Whigs had called in the newspapers for a meeting of the freemen and freeholders on January 17 to choose a ticket. It was this meeting which nominated the victors. Const. Gaz., 17 January 1776; Smith, Memoirs, V, 2 and 3 February 1776.

Queens, but the Jersey troops probably had been cowed by the Tories¹ when they disarmed several hundred in late January. The dampening of Tory ardor in Queens did not affect Richmond where the two leading Tories retained their assembly seats. Similarly, in the Borough of Westchester in the southern part of that county, a DeLancey gained the victory, but Whigs captured the two other seats for the county. Although the Whigs won an impressive victory, moderates and conservatives would compose the new assembly and the Tories might sway the Whigs if² they pursued a policy of indirection.

Having committed themselves to the election of the new assembly, the Tories had to make the difficult decision whether they would permit the legislature to convene. Certainly the Tory defeat at the polls had not induced the governor to prorogue the assembly. What gave Tryon and his council pause was not the election but the state of public opinion. Early in January New York papers carried the text of the king's October speech to Parliament in which he declared his intention of ending the rebellion quickly by the "most decisive³ exertions." William Smith remarked that the news "greatly inflamed

1. Becker, op. cit., pp. 244-45. When the Tories surrendered their weapons, they took an oath to support the Provincial Congress and not to aid the British. Force, op. cit., 4th Ser., IV, 858; N.Y.G., 29 January 1776.

2. The inability of the Tories to win a majority in the assembly under the conditions of restricted suffrage is striking testimony to their loss of influence among the electorate. This is all the more astonishing in the countryside where the great landholders could sway the votes of their lessees.

3. Ibid., 8 January 1776.

the multitude, upon the certain prospect of a new campaign."¹ When the council met before the election on January 29 to lay plans for the coming legislative session the members were gloomy concerning the administration's prospects.² They divided over the question of how long to postpone the opening of the assembly; one faction favored a month's delay, the other a fortnight. They resolved the difference by agreeing to permit the meeting on February 14 as stipulated in the writs of election, if good news came from Britain to soothe the "popular ferments." Otherwise, the governor would prorogue the legislature for a month.³ Not only did expectations of good news from Britain prove illusory, but the threat of war increased with the arrival of General Charles Lee to erect defenses against an expected British assault.⁴ Consequently, the council approved the prorogation of the legislature which never again sat in the colony.

Although the Whig leaders had wavered and hesitated in the latter half of 1775, they had consolidated support among the people for the revolutionary cause and had consolidated the revolutionary organizations throughout the province. The February prorogation of the assembly signalled the end of Tory efforts, without the employment of an army, to regain supremacy in the province. Their defeats within and without the Provincial Congress underlined the fact they were a minority.

1. Smith, *Memoirs*, V, 6 January 1776.

2. *Ibid.*, V, 29 January 1776

3. *Ibid.*

4. Nettels, *Washington*, pp. 209-13.

CHAPTER IV

THE TIDE SETS FOR INDEPENDENCE

The irresolution of the First and Second Provincial Congresses often tends to obscure the hardening of the opposition to Britain and the growth of sentiment for independence. Even in the dismal days of November when the First Congress collapsed, the press carried letters expressing determined resistance to British measures. "Philo Patriae," lecturing his readers on patriotism, heaped scorn on those who sold¹ their talents to the ministry and on those who drew back in fear. Although "The Monitor" confidently asserted that Britain would weary of fruitless endeavors and ultimately would concede, he also warned his countrymen that they must prepare to die in defense of their lib-²erties. "An Occasional Remarker" warned against the increasing bold-ness of the Tories and said that he was prepared to make the final³ sacrifice in defense of American rights. "A Poor Man" remonstrated with those of the "industrious" poor who favored the government. Contrasting the condition of the American farmer and laborer with his European counterpart, he wrote:

Here, a poor man, can get his bread, and eat it in comfort and peace. There, the greatest part of his earnings are taken from him, to fatten and feed the

1. N. Y. J., 2 November 1775.

2. Ibid., 9 November 1775.

3. Ibid., 16 November 1775.

pride of the rich and lazy; who instead of thanking him for it, only insult and despise him. He hardly dares to say his soul is his own....I would rather die ten thousand deaths, than to see this country enslaved, and ruined by a venal wicked, blundering parliament.¹

When news of Governor Dunmore's depredations in Virginia reached New York, "Minos" proposed that he be tried and hanged for his crimes.²

Among those who sought to counteract the effect on public opinion of the Whig leadership's timidity was "The Monitor." When the Tories attempted to beguile the Second Congress into calling for a meeting of the assembly to act on Lord North's proposition, "The Monitor" wrote a detailed dissection of the offer which exposed its damaging consequences.³ This same writer drove home two sharp attacks on the frightened congressmen and on those who had opposed Britain in 1774, but now sided with the ministry.⁴ In his seventh number "The Monitor" differentiated nicely between timidity and prudence:

When the former qualities prevail in the conduct of affairs, we see none but weak and irresolute councils, productive of plans and measures, slow in their execution, and insignificant in their consequences. Every proposal, whether trivial or important, is perplexed with endless debates; however obvious its propriety, still it must be examined in every light, must undergo

1. Const. Gaz., 25 November 1775.

2. N. Y. J., 7 December 1775.

3. "The Monitor," no. 6, ibid., 14 December 1775. He concluded on a note of open hostility: "The resolution in question is at such an infinite distance from anything we can embrace, and is clothed in such a menacing garb, that it clearly evinces the most unfriendly disposition, and claims nothing from us, but the most contemptuous inattention."

4. "The Monitor," nos. 7 and 8, ibid., 21, 28 December 1775.

the nicest dissection, and each member of it be viewed with the most scrupulous precision....In a word, nothing wise, provident, manly or decisive is to be expected; a scandalous remissness, imbecility and inaction, characterise the general current of affairs....When the latter ingredients preponderate, we see bold designs concerted with becoming resolution, and executed with answerable firmness and success....Deliberation is indulged within proper bounds....Activity and fortitude are the very life of great exploits, and can alone produce security in perilous and stormy times.

As the assembly election campaign approached its climax, "The Monitor" called for the rejection of "those whose conduct has been ambiguous and wavering," and urged the electors to extract a promise from every candidate to espouse legislative reform.¹ He concluded with proposals for triennial assemblies and laws against "every species" of bribery and corruption.

Correspondents defended vigorously the colonial position on the political and constitutional issues of the day. In a special plea "To the Inhabitants of Queen's County, Long Island," "A plain man" reviewed the major irritants in imperial relations. Emphasizing no taxation without representation and quoting Locke on the right to possess property, the writer observed:

That representation should accompany taxation is an eternal law of nature, and inseperable from the very idea of property, so that no property can exist without it: whatever is a man's own, no other person can have a right to take from him, without his consent, expressed by himself, or his representative.²

1. Ibid., 11 January 1776.

2. He specified the other grievances in this order: the prohibition on making steel; the importation of Spanish and Portuguese wines through England; restrictions on the marketing of hats; the prohibition on building plating and slitting mills and tilt hammers; limitations on the marketing of wool and woollen textiles; trial of causes in admiralty courts. Const. Gaz., 29 November, 2, 6 December 1775.

Although "The Monitor" essayed a comprehensive analysis of the disputes, he devoted more argument to the tax question than to any other single subject.¹ The changing tone of these articles may connote the stiffening of public opinion. Writing in November, the author discerned the intent of the ministry to be the "subjugation" of the colonies to parliamentary supremacy. By January "The Monitor" saw in the government's policies a consistent effort "to impose and rivet the chains of America."² Notwithstanding the frequent recurrence of the taxation theme, this author also touched upon home rule and claimed the "exclusive right to regulate our internal police."³ Moreover, "the power of legislation," he argued, "is so necessary to preserve that of taxation, that the one cannot long exist without the other." These ideas, appearing in November and December, preceded the publication of Paine's Common Sense and suggest that they had obtained considerable currency.

Until September, 1775 the Whigs focused their criticism on the North ministry and Parliament but in that month they broadened their attacks to include the king. The Whigs proclaimed themselves the champions of constitutional monarchy as opposed to Parliament whom they accused of enacting illegal statutes. Since George III reigned as a

1. N.Y.J., 23, 30 November 1775, 4, 18 January 1776. There is some ground for suspecting "The Monitor" to be Alexander Hamilton. Professor Broadus Mitchell subscribes to this viewpoint of Hamilton. The known Hamilton pamphlets of this period provide a basis for comparison. The similarity of style, method of argument and references to Fume are suggestive. Perhaps most persuasive of all is the similarity of content in "The Monitor" no. 4 on the tea tax and the Hamilton pamphlet, The Farmer Refuted.

2. N.Y.J., 30 November 1775, 18 January 1776.

3. Ibid., 8 February 1776.

constitutional sovereign, he must reject unconstitutional laws. When the king sought to enforce these unlawful statutes, he acted unconstitutionally and in "very iniquitous" fashion. By opposing the royal measures, with force if necessary, the Whigs defended the Hanoverian crown, while the Tories sought to alter the constitutional basis of monarchy and to restore absolutism.¹ "Amicus Constitutionis" went so far as to assert that the king had deposed himself constitutionally by his conduct and could not be deemed lawful ruler until he stopped the war and repealed the "cruel" acts against the colonies.² Although "The Monitor" wrote in similar vein about king and constitution in his second number, his twelfth production presented powerful reasons for breaking the tie to George III.³ This last philippic set out to destroy "superstitious veneration for dignified names," but in the process attacked the institution of monarchy. He wrote:

the black catalogue of royal malignities would rather stimulate their [i.e., the people's] disgust than feed their admiration. They would discover that the ambition and avarice, the pride, caprice and cruelty of monarchs have been the most fruitful sources of havoc, devastation and ruin among men. They would be sensible, that those attributes of perfection they are wont to ascribe to the British sovereign, as they have no sufficient foundation in his own particular character, are altogether fancies and visions.

Appearing fifteen days after Paine's Common Sense, this piece by "Monitor" reflected perhaps a growing sentiment in its disillusionment with monarchy.

1. "Obadiah," ibid., 21 September 1775; "Lucius," Const. Gaz., 27 September 1775.

2. N. Y. J., 19 October 1775.

3. Ibid., 23 November 1775, 25 January 1776.

Letters opposing surrender to the British continued to appear in the press throughout the spring of 1776. Writers, warning against the "insidious wiles" of the North government, denounced the peace commissioners' mission as an attempt to divide and conquer. One anonymous penman, refusing to accept a British offer to repeal the "detestable" acts, questioned the faith of the ministry. He recalled to his readers the fate of those Dutch provinces that had submitted to the Spanish. Having disarmed the rebels, the Duke of Alva hanged "up-¹wards of 15000 of their principal gentlemen."

While the newspapers reflect one facet of revolutionary thought, they are not the only guides. Other observers testified more directly to the popular enthusiasm for the American cause. In spite of the backwardness of the Whig leaders in fortifying the port against the probable British attack, William Thompson could still write

I am happy to find the inhabitants of the place so far exceed the character I had of them. I never knew people so willing to assist in every military manoeuvre, and every thing that can be set on foot for the defence of the City is carried on with the greatest attention and spirit.²

1. "An Observer" and "The Monitor" no. 15, ibid., 22 February 1776, anon. on the British commissioners, 25 April 1776; anon. on arbitrary rule and laying down arms, Const. Gaz., 24, 28 February 1776; "American Patriot" and anon. on British commissioners, N. Y. P., 11, 25 April 1776; "H. Y.," N. Y. G., 29 April 1776; "Americanus," 30 March 1776, Force, op. cit., 4th Ser., V, 548.

2. Thompson to Schuyler, 28 March 1776, Misc. Papers (Philip Schuyler), NYPL. For similar comments, see General Charles Lee to Washington, 14 February 1776, quoted in Nettels, Washington, pp. 211-12; R. H. Lee to General Charles Lee, 1 April 1776, NYHS Coll., IV, 367-68; Hugh Hughes to Samuel and John Adams, 4 February 1776, Samuel Adams Papers, NYPL.

Eliphalet Dyer attributed "pannick" to "Mr Duane & c &c," but praised¹ Isaac Sears for his role in the defensive preparations. So confident was Jay of the popular strength throughout the colony of the revolutionary party that he exhorted McDougall to have the Provincial Congress² levy taxes.

During the first four months of 1776 the thinking of the moderate Whigs moved perceptibly closer to that of the radicals. Men like Jay and Robert R. Livingston, driven by the current of events, slowly shifted³ position. Jay acknowledged that

from the present Appearance of Things it is natural to suppose that the Sword must decide the Controversy - and with a View to that object our Measures should in a great Degree be taken.⁴

Livingston predicted "that another year of war and devastation will confirm me a republican...."⁵ While accepting the inevitability of war,

1. "I trust that City is now pretty well secured & can assure you it is much owing to that crazy Capt Sears which Y--k Delegates would affect to call him." Dyer to Samuel Adams, 27 February 1776, ibid.

2. Jay to McDougall, 27 March 1776, McDougall Papers, NYHS.

3. Jay placed himself among the moderate group which included McDougall. He frowned on those who "observe no medium and are either all Flame or all Frost." Ibid.

Tryon's March proclamation offering forgiveness to the penitent and promising armed support for the Tories did nothing to reverse the trend: "It is generally a matter of laughter and surprize, that he could do anything so weak and ill-judged. The friends of government were provoked at being so distinguished, and the friends to liberty hung him in effigy and printed a dying speech for him." Quoted in Flick, Loyalism, p. 51 from a Letter from New York, 12 April 1776, The Remembrancer, p. 86.

4. Jay to McDougall, 11 April 1776, McDougall Papers, NYHS.

5. Livingston to Duane, 16 February 1776, Bancroft Transcripts: Livingston Papers, NYPL. A month previously he had written Schuyler, "it is time we sh'd act decisively, heaven & our own vigor must support us." 16 January 1776, Schuyler Papers, box 27, NYPL.

the moderates were also disturbed by the lack of "good and well ordered Governments" to counteract "that Anarchy which already too much pre-

vails."¹ Hugh Hughes had prodded Jay and McDougall in January on the "absolute necessity...for adopting some rational system of government"² but it took three months for the latter to accept that necessity. The

moderates' and conservatives' reaction to Lord North's plan to send commissioners to negotiate with the colonies delineated the growing divergence in their views. Jay doubted that they would have any effective power to treat and therefore acquiesced in the requirement of

more vigorous armed resistance.³ Conservative James Duane, who disagreed with Jay, wrote Livingston:

I am unwilling that while Commissioners are daily looked for, we should by any irrevocable measure tie up our hands, and put it out of our power to terminate this destructive war.⁴

When the election of the Third Provincial Congress in April, 1776 is contrasted with the election of the Second in November, 1775, the scope of the changing political mood becomes readily apparent. As

1. Jay to McDougall, 11 April 1776, McDougall Papers. See also McDougall to Schuyler, 7 March 1776, Schuyler to McDougall, 14 March 1776, *ibid.*

2. Hughes to Samuel Adams, 8 January 1776, Samuel Adams Papers, NYPL.

3. Jay to McDougall, 11 April 1776, McDougall Papers. See also William Floyd to John McKesson, 9 May 1776, Force, *op. cit.*, 4th Ser., V, 395; speech of Gouverneur Morris, 24 May 1776, Gouverneur Morris Papers, CUL and Jared Sparks, Life of Gouverneur Morris with Selections from His Correspondence and Miscellaneous Papers, I, 106-07 (hereafter cited as Morris).

4. Duane to R. R. Livingston, 20 March 1776, Bancroft Transcripts: Livingston Papers, NYPL.

compared with 80 delegates chosen to the Second Congress, the people sent 101 to the Third.¹ Most of the counties had fully established a network of district committees, each district having a proportionate share of the county congressional representation.² The numerical increase, therefore, indicates in part widespread voting within the districts.³ In part also it signifies the participation of all fourteen counties, whereas two, Queens and Gloucester, did not have representation in the preceding Congress. The sterner treatment of the Queens Tories in January and February enabled the Whigs there to put together a county committee and several district committees.⁴ Finally, even though all the congressmen did not attend the session, enough did so to satisfy the quorum needs; the lack of a quorum had operated as a constant obstacle in the work of the Second Congress.⁵ Thus one might expect that the Third Congress would be amenable to the adoption of more bellicose policies when it convened in May.

Although the Second Congress and its Committee of Safety pursued a general course of temporization, it did adopt some aggressive measures. Alarmed by General Lee's endeavors to interdict communication with Governor Tryon and the men-of-war, the Congress did consent

1. Becker, op. cit., pp. 232, 238, places the deputies for ten counties at 76, but two other counties chose four men. See above pp. 73-76.

2. Queens and Richmond lacked the district committees.

3. Becker, op. cit., p. 258.

4. Ibid., p. 259, n. 33; Provincial Congress to Queens County Committee, 7 March 1776, Jour. Prov. Cong., I, 345.

5. Becker, op. cit., p. 260.

reluctantly to a stricter regulation of the traffic after March 8. Resumption of the intercourse depended upon British non-molestation¹ of the city's supplies coming from Jersey. Furthermore, the Committee of Safety strove to check on the quantities of supplies delivered to the British vessels in order to prevent them from accumulating reserve stores.² Taking advantage of congressional hesitancy, Tryon and the naval officers planned a partial blockade of the port. They fitted out two armed ships to prey on merchantmen plying the waters between the Delaware River and Sandy Hook and stopped shipping from sailing out of the harbor. The congressional reaction commingled new resoluteness with past fear. Congress ordered the arming of a vessel to protect the trade lanes to Philadelphia, but it did not protest the interference with departures.³

When Washington's army commenced its transfer to New York in April, the Committee of Safety acknowledged that intercourse with the enemy would have to cease. The Committee told the New Jersey Congress:

As the ships of war in our harbour are daily committing acts of piracy and depredation on vessels and property of the inhabitants of the United Colonies, we apprehend orders will soon issue for stopping all farther supplies to them.

It would not assume, however, the responsibility of putting the ships

1. Ibid., p. 249. For the details see Jour. Prov. Cong., I, 346.

2. Ibid., I, 372.

3. The New Yorkers asked the Continental Congress to provide a ship to patrol the southern half of the threatened area while they guarded the northern sector. Ibid., I, 354, 380.

under a ban even though it charged the British with bad faith. The Committee preferred to await the commander-in-chief's orders. When Washington in mid-April prohibited the communication between ships and shore,¹ the Committee complied willingly.

Although the Continental Congress had authorized the colony to raise four regiments for the Continental Army in anticipation of a British attack upon the city, the Second Congress had neglected the task. Since the Continental Congress had not assigned these troops to the invasion of Canada, Schuyler had left them under the command of New York. When Washington arrived, a delicate question of jurisdiction arose. The general's application for information on the status of the units, not only posed the problem of their command, but also embarrassed the Committee of Safety, since it revealed their negligence in recruiting and arming the units. The Committee admitted Washington's prior authority and spurred the campaign to enlist and equip the troops.²

The need for the formation of a general anti-loyalist policy grew in urgency as hostilities spread. Neglect of the loyalists would permit the growth of a party which might wreck the revolutionary organization. The request in December, 1775 for Continental troops to disarm

1. Becker, 2p. cit., p. 249; Nettels, Washington, pp. 284-85; Committee of Safety to New Jersey Provincial Congress, 2 April 1776, Jour. Prov. Cong., I, 397.

2. Nettels, Washington, pp. 285-87; Jour. Prov. Cong., I, 420-21. Washington also prodded the Committee on the organization of the militia for emergency mobilization. He asked the Committee how long it would take to gather 2,500 men in a "sudden emergency" and pressed them to cooperate with him in planning for such an eventuality. The Committee's state of mind may be seen in its comment that "we do not at present foresee that emergency." Conceding the possibility of the contingency, however, the Committee readily set to work to fabricate the needed machinery. Ibid., I, 419-20.

the Tories in Tryon, Queens and Richmond constituted a tacit admission of the critical nature of the problem; a task from which the moderates and conservatives shrank. On the other hand, if they adopted a stern policy of imprisoning those suspected of hostile intentions, they would burn another bridge behind them. They would take another long stride down the road to revolution. In March the Continental Congress thrust upon the New York Whigs the necessity of a decision on the Tory problem when it passed a resolution to disarm all non-associators. The Committee of Safety first learned of Congress's action when General Lord Stirling passed on to it a copy of the resolve. Having read and filed the copy, the Committee received its official transcript from the Congress two days later. For five days nothing happened; then on March 26 the Committee appointed a committee "to report a plan" to give effect to Congress's decision. Having taken the first step, the committee the following day presented its proposal which the Committee of Safety unanimously approved. The resolution ordered the local committees "forthwith" to disarm all known "disaffected" persons and those who refused to sign an association pledging them to defend the colonies by arms. If it is true that the Committee advocated the use of "prudence and moderation," it is also true that it gave the district committees a blank check to call out the militia and minute men to assist them in carrying out the resolution. The Committee of Safety required an inventory of the arms gathered since it contemplated equipping the four new regiments with them.

1. Ibid., I, 375, 379, 386, 389.

Although a month later the Committee of Safety complained to the county committees about their failure to forward the arms inventories, the local organizations did carry out their instructions.¹ For example, Washington acquired some of the guns in Ulster. The uncertainties of the communications system probably affected the Committee's plans. The Committee had entrusted the Albany County Committee's copy of its March 27 order to member Peter R. Livingston for delivery, but Albany never saw it. Instead the Albany Committee, taking the initiative, wrote to New York that it had seen a Continental resolution for disarming Tories and solicited instructions on executing it.² Meanwhile, Albany had lost more than a month. However halting, this step represented the first consistent effort to lay down a general anti-Tory policy.³ Beyond this, however, the Second Congress would not go.

Congress moved cautiously in two other Tory matters. The question of confiscation arose in connection with the case of Henry

1. Becker, *op. cit.*, p. 262 interprets this letter as evidence that "the order had scarcely been attended to at all." However, comments in the Journal and other evidence indicate that arms had been seized in New York City, Queens, Dutchess, Ulster, Westchester, Suffolk and Albany. Moreover, the lack of inventories is no proof of committee inaction as the heretofore cited cases show. Jour. Prov. Cong., I, 411, 415, 417, 420; Force, *op. cit.*, 4th Ser., V, 1469, 1487; Minutes of the Albany Committee of Correspondence, 1775-78, I, 403 (hereafter cited as Min. Albany Com.).

2. Exhorting Albany to carry out the resolution without delay, the Committee complained that it "expected" that Livingston had delivered their resolve "long since." Jour. Prov. Cong., I, 424, 425.

3. Becker, *op. cit.*, p. 262 concludes that the Second Congress did not make "any serious effort to deal with loyalist opposition in a systematic of effective fashion."

Lloyd of Queens Village, Queens. Lloyd went to Boston to join General Howe, leaving his property in the hands of his nephew, John Lloyd.

The Committee of Safety ordered an accurate inventory of all his property. Although the Committee entrusted the property's care to John Lloyd, it forbade the nephew to transfer or sell any part of it unless by order of the Provincial Congress. While acting gingerly, the Committee had exercised sovereign power in placing limits on the
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use of the property.

The second matter came to the reconvened Congress's attention the day before its life expired. A committee recommended the levying of a fine on all male disarmed Tories, ages 16 to 50. Since these Tories could not serve now in the militia, the committee proposed to penalize them five shillings for every mustering of the militia. Instead of rejecting the plan outright, the Congress voted to refer
2
it to the Third Congress which would meet in five days.

Notwithstanding the caution of the New York Provincial Congress, factors outside the colony could precipitate distasteful dilemmas for it. As with the loyalist predicament, the Continental Congress posed another knotty problem for the New Yorkers when it recommended in May the suppression of the crown's authority and the formation of new governments. However much the provincial body might have preferred to defer consideration of the topic, it could not escape its own constituents.

1. Jour. Prov. Cong., I, 428-29.

2. Ibid., I, 440.

Since January widespread public debate had occurred over the cognate questions of independence and a new internal government.

"Salus Populi" in February declared that in the face of the crisis the people practically had abolished the old forms of government and substituted temporary ones. This fact was a potent argument for more permanent change:

Does not this shew evidently, that the forms we have hitherto lived under are by no means equal to the task of preserving our liberties, and that without such reforms as will enable them to withstand attacks we can never be safe?

Pointing in admiration to Connecticut and Rhode Island which had an elected executive, he wrote,

That form of government alone can give us security which puts all the servants of the public under the power of the people.¹

A handbill in the form of a petition to the Committee of Safety signed by "A Free Citizen" first appeared on the city's streets and then reappeared in one of the newspapers. Motivated by fear of military government on the one hand and the "ungovernable fury of a mob" on the other, "A Free Citizen" pleaded with the Committee of Safety to apply to the Continental Congress "for liberty" to establish a suitable government.² An unsigned piece in May dismissed reconciliation as a "painted

1. He warned, "He who has the giving of all places in a government will always be master, if the constitution were in other respects the most perfect in the world." Const. Gaz., 14 February 1776. Another unnamed author urged Connecticut's form as a model. "To the Freeborn Sons of America, in General, and of Connecticut in Particular," N.Y.P., 21 March 1776.

2. "A Free Citizen" still hoped for a reconciliation "upon constitutional principles." Const. Gaz., 24 April 1776.

dream" and made the question of government one of timing. Which would be more advantageous, to draw up a constitution amidst the confusion of war or to wait until peace is won? We must chose the former alternative because "there is nothing so conducive to vigour, expedition, foresight, secrecy, and everything advantageous in war, as a well regulated government." Moreover, after we have triumphed over Britain, if we have no sound government, we may have to face the twin evils of a Caesar (or Cromwell) or "mobile frenzy." Read diligently England's history after 1649, he admonished his readers, so we may not "run the risk of having our constitution finally determined¹ by the sword."

Moderate opinion in the revolutionary party in April veered toward the idea of a more stable government. Jay confided to McDougall that the colony must look to the establishment of a firm government and suggested that the Second Congress begin to think about the problem. Having committed himself thus far, Jay hastened to remark that the expectation of British peace commissioners would probably delay the matter² of constitutions. Citing the drafting of governments in the Carolinas,³ William Floyd expected New York to take similar action soon. Writing to Jay from Philadelphia in May, R. R. Livingston voiced the hope that the New York Congress understood the necessity of erecting a new govern-

1. N. Y. J., 9 May 1776. See also "Spartanus," ibid., 30 May 1776.

2. Jay to McDougall, 11 April 1776, McDougall Papers, NYHS.

3. Floyd to McKesson, 9 May 1776, Force, op. cit., 4th Ser., V, 395.

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ment. Congressman Ezra L'Homedieu of Suffolk assured his colleague General Nathaniel Woodhull that "most people" approved the idea of a
2
new governmental form. On the other hand, conservatives like Duane contended that the defeat of most of the New York City radicals in the April elections for the Third Congress and city Committee demonstrated the lack of popular support for the radical position. Therefore, Duane declared, Congress should not be "too precipitate" in raising the constitutional issue; rather, it should delay and see what
3
course the other middle colonies adopt before it moves.

Duane's interpretation of the April balloting, if correct, is of considerable importance. It meant that public opinion opposed supplanting the revolutionary committee system. An examination of the city elections, therefore, is necessary to determine the validity of Duane's claim. Four tickets were submitted to the inhabitants. The four slates carried many of the candidates in common, but the exceptions gave the election its tone. The city Committee headed its list of April 13 with the men who represented New York in the Continental Congress (Jay, Philip Livingston, Francis Lewis and John Alsop), but it excluded the fifth delegate, Duane. That same day a broadside

1. Livingston to Jay, 17 May 1776, Jay Papers, CUL; Johnston, op. cit., I, 60.

2. L'Homedieu to Nathaniel Woodhull, 2 June 1776, Force, op. cit., 4th Ser., VI, 684.

3. Duane to Jay, 18 May 1776, Johnston, op. cit., I, 61. Duane also miscalculated the situation in Virginia in this letter. He implied that Virginia would be against changing the government, but at that very moment word was on the way to Philadelphia instructing the Virginia representatives to move for independence.

by "Sentinel" circulated about town which substituted seven new choices (Alexander McDougall, Thomas Marston, John Ray, Adrian Rutgers, Robert Ray, Abraham P. Lott and Henry Rensen) for an equal number of the Committee's ticket. "Sentinel" deleted the names of the four Continental delegates and three radicals (John Broome, Peter Pra Van Zandt and James Alner). Two other tickets appeared in rapid succession.

On April 16 the Mechanics Committee produced a modified slate. It approved "Sentinel's" excision of the Continental delegates' names and accepted his substitutes for them. However, it could not permit the loss of Broome, Van Zandt and Alner whom it added to its ticket, sacrificing "Sentinel's" selection of McDougall, Marston and John Ray. In addition the Mechanics ruled out Comfort Sands and Thomas Randall, both of whom appeared on the other two lists, to make room for Isaac Sears and William Malcolm. All three slates had one thing in common; none of them named Duane. Still another handbill appeared, this time without signature, which adopted the whole city committee bloc but substituted Duane for Alner, a member of the Mechanics Committee.

At the height of the campaign a broadside by "A Sober Citizen" practically presented an ultimatum to the voters. He stated as if it were fact that the Continental delegates, if defeated, would withdraw from the revolutionary movement and would seek pardon from the British to save themselves. Facing the probability of an invasion, the city could not afford the possible disruption of the revolutionary organization which might ensue from these defections. "Sober Citizen" accompanied this advice with a diatribe against the Mechanics' candidates whom he regarded as the principal opponents of the Continental delegates.

The Mechanics' nominees, he warned, possess no property or virtue and, if elected, will bring both colony and continent into contempt.

The election results indicate that the electorate heeded the admonition of "Sober Citizen," for the Continental delegates and Duane won seats. Indeed, almost the whole of the city Committee's ticket of 21 ran successfully. Alner and Prince, the exceptions, lost out to Duane and Remsen. Therefore, the principal men on the Mechanics' ballot, with one exception, suffered defeat. Henry Remsen, alone of their substitutes, won a seat, but he also had "Sentinel's" support. Furthermore, two radicals on the city Committee's and Mechanics' slates, Broome and Van Zandt, defeated two of "Sentinel's" moderates. Even McDougall did not win. The balloting, therefore, did not so much express a rejection of the moderates and radicals, as it did a fear¹ of disunity in the face of the enemy. Duane's interpretation of these events perhaps reflects more his desire to prevent change than it does factual evaluation.

The Whigs transformed opinions into deeds on May 24 when the New York Congress took up the subject of government as recommended by the Continental Congress. Unable to evade the issue, some deputies sought refuge in further delay advocating another polling of the people. Taking a different tack, Gouverneur Morris pleaded in a lengthy speech² for the election of a special constitutional convention. Since this

1. Becker, op. cit., pp. 257-58; "A Sober Citizen," 16 April 1776, Broad-sides, NYPL.

2. Jour. Prov. Cong., I, 460.

would have meant by-passing Congress in which the moderates and conservatives prevailed, one author has said that "Morris undoubtedly represented the more radical views...."¹ No doubt many moderates and conservatives wished to prevent the writing of a radical charter and they believed Congress to be the means of maintaining their political supremacy. Morris, however, had carefully reassured the members on this point, when he said:

Nor do I think it quite proper for us all to abandon the Senate House and leave the business to entire new men, while the country continues in its present dangerous situation.²

Thus the election of a convention would not open the floodgates to the radicals. Practically, of course, Morris's procedure guaranteed postponement of any labor on a draft constitution until June or July, since³ the election would consume a month or more.

1. Becker, op. cit., p. 267. This judgment was probably influenced by Sparks's quotations from the speech which argued that the colonies were independent in fact and Congress should acknowledge that fact. Despite this plea Morris's subsequent behavior was at variance with these ideas. For example, when the Mechanics' Committee presented a petition to Congress on June 4 urging it to instruct the Continental delegates to move for independence, Congress rejected the plea without recorded dissent. Although Morris was present, there is nothing to indicate that he favored such instructions or even that he raised the subject of independence during the discussion of the petition. Again, when on June 5 Congress entertained the Virginia Convention's crucial letter on independence, Morris did not attempt to compel a debate, even though Congress named him and Jay a committee to draft a reply to the Virginians. The committee's draft, which Congress approved without dissent, was polite but evasive. If Morris disagreed with these sentiments, he did not bother to express his disapproval. Moreover, even after his return from a visit in the middle of June to Philadelphia where the fateful debate had begun and been postponed to July 1, Morris did not raise the matter on the floor of Congress. Jour. Prov. Cong., I, 474ff.

2. Sparks, Morris, I, 106.

3. Under the modified plan actually adopted, the colony held elections in June and the new Congress met in July.

Actually Scott's plan represented the radical approach, but Scott did not contemplate democratizing the colony's political structure. His proposition was radical because it proposed that the existing legislature should draw up the constitution. Once having the matter under consideration, Congress could not shunt a question of such major importance into obscurity and forget it. This procedure, therefore, would minimize delay. The united mechanics' association welcomed Scott's interpretation of Congress's authority and expressed "astonishment" that any doubt should arise about the power of the house to frame¹ the charter. The record does not show that any disagreement existed over the basic question of whether the Whigs should form a government; rather, both groups assumed the necessity of so doing, but differed over timing and, thereby, procedure.

Morris's speech and motion on May 24 opened the proceedings² on the great question. Although Scott delivered a long counter-argument, he closed his speech on an indecisive note which weakened

1. N. Y. G., 17 June 1776; Force, op. cit., 4th Ser. VI, 895-98.

2. According to the Journal Morris made two long speeches, the latter being his rejoinder to Scott. Sparks copiously quoted a fragment of one of them in Morris, I, 97ff. Unfortunately, Sparks omitted sections and altered phraseology without indicating the changes. This portion is in the Gouverneur Morris Papers, CUL, and may represent one-half the original, since its pages are numbered five through eight. Their theme is that New York is already independent in everything but name, that the Congress is in fact a legislature and that only an open avowal of independence can guarantee peace and security. Since the nature of the argument is such, it is questionable that Morris could have intended it as a rebuttal to Scott's contention on Congress's powers. It is more likely a part of the first address which preceded Scott's.

his position. When he argued for Congress's constitution-drafting power, he put it negatively, "at least, it is doubtful whether they have not that power...." Having conceded the existence of doubt, Scott recommended that the house refer this point to committee. Since Morris had moved previously for the appointment of a committee to draw up instructions for the election of a constitutional convention, Comfort Sands submitted an amendment that the suggested committee "take into consideration the Resolutions of the Continental Congress of the 15th May instant, and report thereon with all convenient speed." This substitute motion, which Scott seconded, carried with only two counties and Morris voting against. Congress chose Scott, Jay, John Haring, Francis Lewis, Henry Remsen, John Broome and Jacob Cuyler as the committee.¹

Referral of the motion transferred debate on the general question to the committee. If Scott expected the committee to limit itself to the single formulation he had proposed, he misinterpreted Sands's amendment. The general phraseology of the motion placed no stipulations on the committee's labors. In the committee the opposing viewpoints accepted a compromise which sacrificed Morris's special convention, but salvaged the all-important time element. Perhaps the congressmen's desire to be both legislators and constitution drafters may have figured in the abandonment of the constitutional convention. If they adopted Morris's plan, the Congress would have to recess until after the convention had completed its work. That might entail the absence of any

1. Jour. Prov. Cong., I, 460.

legislative body for several months in a period of rapidly increasing danger. If Congress remained in session, the members could not serve in the convention. In order, therefore, to keep the reins in their own hands and to still the misgivings they themselves had raised, they recommended the election of a new congress whose members would specifically have the people's mandate to form a new government. Naturally the polling process would delay any constitutional action until the end of June or early July.

In its report to the house on May 27 the committee presented a series of conclusions on which it based its recommendations that new elections be held. This report is of the utmost importance because there is a major difference between it and the final resolutions. The fourth clause of the report summarized the events that dissolved the royal government and concluded,

whereby, it hath become absolutely necessary for the good people of this Colony to institute a new and regular form of internal Government and Police....

Clauses seven and eight repeated this clear and unequivocal determination to replace the government. Clause seven called on the people to declare the present members "competent for the purpose of establishing such new form of internal police and government" or to choose others "with express authority to institute and establish such new and internal form of government." Clause eight reiterated the phrase, "with express
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authority to institute" a new government. Having approved the report without any modification, Congress accepted, therefore, the concept that

1. Ibid., I, 462-63.

the mode of governing must be changed. Congress would not debate whether any change should be made. The house committed the report¹ to Scott, Jay and Haring to convert it into formal resolutions.

When the report emerged from the committee on May 31, the key ideas expressed in sections four, seven and eight had undergone subtle but substantial modification. The resolves consolidated these sections into a single resolution which ran:

That it be recommended to the electors...either to authorize (in addition to the powers vested in this Congress) their present Deputies, or others...or either of them, to take into consideration the necessity and propriety of instituting such government as in and by the said resolution of the Continental Congress is described and recommended. And if the majority of the Counties by their Deputies in Provincial Congress, shall be of opinion that such new government ought to be instituted and established, then to institute and establish such a government as they shall deem best calculated to serve the rights, liberties and happiness of the good people of this Colony....²

Did the resolution mean that the newly elected congress would proceed immediately to the task of drafting a constitution? Or did it mean that the newly elected congress would proceed immediately to debate whether or not they should draft a constitution? The phraseology³

1. Ibid. Becker, op. cit., p. 269 incorrectly places Remsen on this committee.

2. Jour. Prov. Cong., I, 469. Underscoring mine.

3. Becker, op. cit., p. 269 considers the ambiguity to be in the sentence beginning "And if the majority of the Counties" and implies that this election was to be a referendum in which the possibility of a "no" vote existed. Taking the phrase in the context of the preceding sentence, it is apparent that the "majority of the Counties" referred to is the majority of county delegations voting on this question in Congress. It is not a majority of the electors instructing their deputies. Moreover, Jay, for example, had no doubt whatsoever that the people would grant the requested power to Congress. Jay to R. R. Livingston, 29 May 1776, Unpublished Corr. R. R. Livingston, no. 25; Johnston, op. cit., I, 65.

implies that congress would consider first whether it ought to establish a new government. The drafting committee, therefore, had re-opened the question, but Congress passed the resolution without¹ discussion and without a recorded vote. In whatever manner the people interpreted this recommendation by Congress, they seem to have² assumed that a new government would replace the committee system.

After Congress published these resolves, public protest arose, but it did not strike out against the authority requested nor the procedure laid down. The sole organized criticism came from the Mechanics Committee which sent to Congress a discursive but provocative letter which throws some light on the political thinking of the lesser merchants,³ tradesmen, mechanics and laborers. Admittedly, open opposition to the resolutions by the Mechanics might offer a lever to the "indefatigable" emissaries of the British or might confuse numbers of the people and dangerously weaken popular support of the revolutionary cause. But the Mechanics explained that they risked these consequences because they conversed daily "with numbers who have been deceived" by the misinterpretation of the resolutions. Many believed that Congress would not submit a new charter to the people for ratification.

1. Jour. Prov. Cong., I, 469.

2. Two penmen, "Spartanus," letter II and "Columbus," N. Y. J., 13 June 1776, exhibit no doubts. The former comments, "As we are to assume a new mode of Government, I think it ought properly to be new." The latter says, "The subject upon which we are now to deliberate...is the election of proper persons to form a new mode of Government for this Colony."

3. See Becker, op. cit., p. 270.

They are terrified at the consequences, although a sincere zeal for the general cause inspires them to suppress their remonstrances, lest the common enemy should avail himself of that circumstance to undermine your [i.e., Congress's] authority.¹

"Impressed with a just fear of the consequences" which flow from this misconception, the Mechanics pleaded with the Congress for a "full and timely explanation" to put an end to the "groundless jealousies" of their "patriotick Resolve."

Having justified their right to evoke the question, the Mechanics entered into a detailed exposition of the people's "inalienable right" to ratify a constitution. This was the "birthright of every man" which God had given to him. Although every individual did not possess the prerequisites for constitutional labors, God-given common sense would enable him to determine "what degree of safety and what advantages he is likely to enjoy, or be deprived of" under any proposed constitution. Should the people delude themselves into a renunciation of their right to ratification, such an "impious and frantick act of self-destruction" would cast them into "absolute slavery" and would destroy the Congress's "lawful power" over them. Of this dual outcome the Committee commented

It might probably accelerate our [i.e., the people's] political death; but it must immediately cause your own.

Since the congressional resolutions did not refer to ratification, the letter quoted the section that had created these fears. The

1. N. Y. C., 17 June 1776; reprinted in Jour. Prov. Cong., II, 241-43; Force, op. cit., 4th Ser., VI, 895-98.

"obnoxious clause" was the key resolve partially quoted above. The ambiguity of the language did not trouble the Mechanics, but the implication that Congress would establish the new government without submitting it to the people for confirmation did. The Committee chose to believe, however, that since the Congress had stated the right of the people to determine existing doubts of constitutional authority, it could not have intended to obtain a surreptitious renunciation of that right:

Human nature, depraved as it is, has not yet, and we hope never will, be guilty of so much hypocrisy and treachery.

On the contrary, the Mechanics deemed the questionable resolution to be "perfectly consistent with the liberal principles on which it is introduced." In support of their interpretation they quoted a much-elided version of the clause:

if the majority of the Counties shall be of opinion that such new Government ought to be instituted, then to institute and establish such a Government.

Although this was quoting out of context with a vengeance, it presented the Congress with an acute dilemma. If it denied the veracity of the meaning, then the people could accuse it of "promoting the selfish views of...oligarchy." On the other hand, if Congress accepted the Mechanics' explication, the people would regard its acceptance as a pledge to refer¹ the constitution to the people for ratification.

1. They warned Congress: "Posterity will behold that Resolve as the test of your rectitude. It will prove that you have fully restored to us the exercise of our right finally to determine on the laws by which this Colony is to be governed; a right of which, by the injustice of the British Government, we have till now been deprived...." Ibid.

Expounding on the necessity and propriety of reliance upon the "sound judgment, integrity, and moderation of a free people," the letter confuted emphatically the idea that any man or men could draft a constitution to which a majority of the people would have no objections whatsoever. The people's free assent constituted the "only characteristic of the true lawfulness and legality that can be given to human institutions." Any other procedure smacked of the "illegal and tyrannical," and proceeded "from the selfish principles of corrupt oligarchy." Furthermore, fundamental law derived in this arbitrary fashion "could be lawfully binding on none but the legislators themselves." Asserting that the British had deprived the colonists of the right to determine their own laws, the Mechanics argued that existing laws "have but a relative legality, and that not one of them is lawfully binding upon us." They added, however, that these laws should be "tolerated" for "common conveniency" until a new government "shall have been freely ratified by the co-legislative power of the people, the sole lawful Legislature of this Colony." Finally, the power to ratify connotes the power to amend the fundamental law whenever the majority shall choose. Associated with this authority is the right of the people to recall their deputies to committees and congresses when a majority in such "district shall think fit."

Despite these strictures the communication welcomed the resolutions and extended to Congress

that tribute of esteem and respect to which you are justly entitled for your zeal in so nobly asserting the rights which the people at large have to legislation, and in promoting their free exercise of those rights.¹

1. Ibid.

At the same time the Mechanics pledged their continued support for
¹
 Congress.

The reaction of Congress to this letter was extraordinary. Congress customarily read its correspondence and entered it in the Journal. Indeed, a previous Mechanics' letter of May 29 did receive² this treatment, but the congressmen did not adhere to the precedent. There is no notation in the Journal of the letter's receipt or of any³ discussion of it. Since Congress did not ultimately submit the constitution to the people for ratification, it is perhaps possible that some of the deputies never intended to have the people affirm it and, therefore, managed to bury the Mechanics' letter.⁴ Failing to obtain any response from Congress, the Mechanics presumably sent their letter to the newspapers to place the issue before the people. In the city's military atmosphere in June, 1776, and with most of populace evacuated, the Mechanics aroused little response from the people on the ratification dispute.

1. They maintained, likewise, their right to express their opinions "with propriety" and to rely "on public indulgence for any imperfection."

2. Jour. Prov. Cong., I, 474.

3. The Congress must have received the letter, since it was found among that body's papers and published with its papers along with the Journal. Moreover, it is quite likely that a group of Mechanics Committee leaders attended Congress to present their letter, since they had followed this procedure with their first letter on June 4. Ibid., II, 241-43.

4. Subsequent events gave the advantage to the Mechanics' opponents. The rapid exodus of the population in June would have hampered any large scale effort to bring pressure to bear on Congress. Also the appearance of the British at the end of the month threw everything into turmoil; Congress adjourned hurriedly and left the city.

Although the people read occasionally about some aspects of the government question in the newspapers, they read about, and probably discussed, even more frequently the correlative issue of independence. Even though no formal debate on this question had occurred in the Third Congress, New Yorkers had read the pros and cons of the subject in the newspapers for five months. "Lycurgus" introduced the topic in the press in late December, 1775, when he castigated the Pennsylvania Assembly for forbidding their delegates to the Continental Congress to vote for independence.¹ He did not espouse the opposing position, but contended that the blank prohibition bound the delegation when no one could foretell what would be necessary in the future. Although "Lycurgus" discussed independence obliquely, "Memento" confronted it squarely and unhesitatingly advocated separation rather than submission to the British "yoke."² Paine's Common Sense inspired other letters which advocated an end to colonialism. "Independent Whig" saw nothing to lose and everything to gain by separation. The North administration is convinced we mean to be independent, he reasoned, and we shall lose no friends by asserting our intent. As for those in Parliament who have opposed the North measures, we shall experience small loss by their alienation. For all their friendship for America they have proved in-

1. N. Y. J., 21 December 1775.

2. N. Y. P., 25 January 1776. See also the anonymous piece quoted in John C. Hamilton, The Life of Alexander Hamilton; A History of the Republic of the United States of America, as Traced in His Writings and in Those of His Contemporaries, I, 112 (hereafter cited as Life).

capable of blocking the government's policies. ¹ "Candidus" assailed British regulation of land, commerce and manufactures, concluding that the colonial system sought to "milk rather than to suckle" the colonies. ² Turning his wrath on colonial officialdom, he accused them of carrying on "their oppressions, vexations and depredations" under the color of royal authority.

Hardly a week passed from late February through June in which the newspapers did not carry at least one contribution to the great controversy. The writers reviewed the causes of the crisis and the colonists' constitutional relations to crown and Parliament. ³ One of the authors disclosed the progress of the sentiment for independence by elaborating the stages which public opinion had traversed. Events compelled the people to abandon these positions as illusory:

That the King can do no wrong; that the interests of Great Britain and the colonies were the same, reciprocal and inseperable;...that the King was imposed upon by his ministers: that a change in administration would rectify the evils complained of;...that our friends throughout the nation would return a better parliament than the last; that the act declaring their right to tax us in all cases whatsoever, would not be carried into execution,...that the several repeals and seeming

1. N. Y. J., 22 February 1776. See also anon., ibid., 7 March 1776; "Z. F.," N. Y. P., 7 March 1776.

2. Ibid., 21 March 1776. See also anon., ibid., 18 April 1776; Force, op. cit., 4th Ser., V, 974-77.

3. Anon., N. Y. J., 4 April 1776; anon., anon. "Queries," "Amicus Patriae," anon., Const. Gaz., 9, 30 March, 5 June, 3 July 1776; "Speech of A Farmer," "A. B.," "To the Freeborn Sons of America in General and of Connecticut in Particular," "Hector," anon., "Independent Whig," N. Y. P., 14, 21 March, 11, 18 April 1776; "Cato" no. 3, 20 April 1776, Hamilton, Life, I, 113.

alterations in their plan of conduct, proved a relinquishment of any evil intentions;...that we have no resources to carry on a war; that jealousies and opposition of interests would ever prevent a junction of the colonies.¹

A notable alteration of content in these polemics occurred toward the close of April. No writer any longer questioned the propriety of independence. When differences cropped up, they revolved around the timing of the separation. The letter writers pronounced the present as most propitious for independence and warned against delay.²

Notwithstanding the inaction of the Provincial Congress, the Tories feared the worst:

There is a great talk of independence, and the unthinking multitude are mad for it; but how matters will terminate, I cannot judge, but believe great will be the opposition [in Congress] to such a declaration. A pamphlet called Common Sense, has carried off its thousands; an answer thereto is come out, but instantly seized in the printer's shop, and burnt in the street, as unfit to be read at this time. I fear, from this line of conduct, the people here will shake you off, and, once gone, will never be regained.³

Try as some deputies might, they could not avoid the issue of independence. Gouverneur Morris spoke at length upon the topic in

1. Anon., Const. Gaz., 9 March 1776.

2. "Serious Questions Addressed to the Congress," Force, op. cit., 4th Ser., V, 1078-79; anon., Const. Gaz., 8 May 1776; "Hermina," "Columbus," N. Y. J., 16 May, 13 June 1776.

There is some evidence for believing that the prevalence of these pre-independence letters was directly proportional to the general sentiments of the populace. Britisher Ambrose Serle expressed amazement at the "incredible influence" of the newspapers in New York. "One is astonished to see with what avidity they are sought after, and how implicitly they are believed, by the great bulk of the people." Serle to Dartmouth, 26 November 1776, Stevens, op. cit., XXIV, no. 2059.

3. Anon., Letter from New York, 22 March 1776, The Remembrancer, 1776, p. 85. See also Joseph Bull to Henry Remsen, 1 June 1776, Force, op. cit., 4th Ser., VI, 672.

May in the course of the debate on creating a new government, but the question of independence was not on the order of the day. The Mechanics Committee, however, raised the question when it drew up an address to the Congress urging that body to instruct the delegates at Philadelphia to work for independence.¹ Although the Mechanics' letter bore the date of May 29, the Committee did not present it to their representatives until June 4. Presumably, the Mechanics delayed delivery until they had word of the Congress's decision on the matter of government. If so, an item in the New York Gazette of June 3, which also carried the Congress's resolutions of May 31, must have stirred them. The news was the text of the Virginia resolutions instructing their continental delegates to move for independence.²

Congress's reaction to the Mechanics' letter reveals clearly their sensitivity to the question of independence. When the representation from the Mechanics in Union led by their chairman, Lewis Thibou, entered the house and presented the address, the chair first cleared the house of all spectators so that Congress might determine whether it was "proper" to receive the memorial. Having "inspected" the document, the congressmen opened the doors and invited Thibou to read it to the house. Although the Journal neither mentions any time lapse in the inspection process, nor describes what Congress did, the house handed Thibou a formal, detailed reply when he finished reading

1. Becker, op. cit., p. 270.

2. N. Y. G., 3 June 1776.

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the Mechanics' letter. The answer betrayed resentment at the political activity of the Mechanics:

We flatter ourselves, however, that neither that association, nor their Committee, will claim any authority whatsoever in the public transactions of the present times; but that, on the contrary, they will ever be ready to submit to that constitutional authority which, by a free election, has been vested in Congress and Committees.²

The point was wholly gratuitous, since the Mechanics not only had not claimed such authority, but had been very deferential:

We as part of your constituents...beg leave in a dutiful manner at this time, to approach unto you our Representatives, and request your kind attention to this our humble Address...should you...think proper to instruct our most honourable Delegates...it would give us the highest satisfaction; and we hereby sincerely promise to endeavour to support the same with our lives and fortunes.³

Congress then declined to accede to the Mechanics' plea:

We are of opinion that the Continental Congress alone have that enlarged view of our political circumstances, which will enable them to decide upon those measures which are necessary for the general welfare; we cannot

1. Jour. Prov. Cong., I, 474. The vagueness and brevity of the record suggest abnormal procedure. Normally all motions and resolutions were entered in the Journal. Congress could not have drawn up the reply without some motion or order which they ought to have recorded, but none appears in the Journal.

2. Ibid. Since these remarks were completely irrelevant, they may have served the dual function of inhibiting the Mechanics' political aggressiveness and of obscuring the key issue which was not any Mechanics' claim to authority, but Congress's refusal to move on the question of independence. The Mechanics later asserted their right to speak up when they saw fit. Mechanics to Provincial Congress, 14 June 1776, ibid., II, 243.

3. N. Y. J., 6 June 1776; Const. Gaz., 5 June 1776; Force, op. cit., 4th Ser., VI, 615.

presume, by any instructions, to make or declare any resolutions, or declarations, upon a so general and momentous concern; but are determined patiently to await and firmly to abide by whatever a majority of that august body shall think needful. We therefore cannot presume to instruct the Delegates of this Colony on the momentous question to which your address refers, until we are informed that it is brought before the Continental Congress, and the sense of this Colony be required through this Congress.¹

The Third Congress's disinclination to act on independence seems to have dashed the hopes of the enthusiasts who began to look toward the ² election of the Fourth Congress to remedy the colony's laggardness.

Meanwhile the Virginia Convention, taking steps to win support for its decision to introduce an independence resolution in Philadelphia, posted off a letter to New York which solicited the latter to give the Virginia resolves due "consideration." The New York Congress received this letter June 5, two days after the resolves had appeared in the

1. Underscoring mine. The underscored passage does not appear in the letter as published in the press, but appears only in the Journal's version. This passage and the following sentence are in fact mutually exclusive. Since the Continental Congress delegates could not act without instructions from their congresses, a decision on independence could not be taken until colonies like New York instructed their deputies for it. It is inconceivable that the Provincial Congress could have thought that the people did not know this fact. It is not unlikely that these words were the consequence of the haste with which Congress drafted their reply to the Mechanics. Perhaps some members noticed the inconsistency when they prepared copies of the letter for the newspapers and deleted the clause. Jour. Prov. Cong., I, 474; N.Y.J., 6 June 1776; Const. Gaz., 5 June 1776.

2. Colonel Jedidiah Huntington wrote Governor Trumbull of Connecticut, 6 June 1776: "The mechanics of the city have voted independence; it is expected the new Congress will follow suit. There will be, I am told, a majority of Presbyterians, which will probably give the representation a different guise from what it has heretofore had." Force, op. cit., 4th Ser., VI, 725.

Gazette. Drafted by Jay and Morris, Congress's answer constituted a polite evasion. The firmest commitment in the message was a pledge that the resolves "will be considered...with all the deliberation due to the importance of the subject." Perhaps to offset the indefiniteness of its response, Congress concluded in a tone of affirmation:

the Congress of this Colony will invariably adopt and pursue every measure which may tend to promote the union and secure the rights and happiness of the United Colonies.¹

Unlike their colleagues at home, the New York delegation in the Continental Congress could not avoid the question of independence.² Virginia presented its motion for independence June 7 and the debate flowed on through June 10. None of the New Yorkers seem to have sanctioned independence, at least not at that juncture, but they divided as to whether they had the power to cast any vote or only a

1. The Journal is so cut and dried that it is impossible to determine whether there was any opposition to the substance. Jour. Prov. Cong., I, 475, 481.

2. Becker, op. cit., p. 271. In view of the supreme importance of the independence question, one would suppose that the representatives would have explained to their colleagues in New York that the debate had commenced. That would have been the fact of the matter, since they dated their letter June 8, the second day of disputation, and one of them had participated in the exchanges. Nevertheless, they gave no intimation of this state of affairs: "Your delegates here expect that the question of Independence will very shortly be agitated in Congress...and all wish to have your sentiments thereon. The matter will admit of no delay." Jour. Prov. Cong., I, 488.

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negative vote on the motion. Undaunted by his voteless status, Robert R. Livingston joined Wilson, Dickinson and Rutledge in the opposition. Averring their approbation of the measure and admitting the impossibility of a return to the status quo ante, they insisted, nevertheless, that the most propitious moment had not arisen. Let "the voice of the people drive" Congress to it, they said. As for New York, Livingston maintained that the people of that province were not yet "ripe" for the break, but that they were "fast ripening."

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The first part of Livingston's characterization certainly applied to the Provincial Congress. When the continental delegates'

1. Edward Rutledge implied to Jay that Clinton, Floyd, Lewis, Wisner and Alsop of New York opposed independence. The tone of the letter leads to the inference that Jay held similar views, an inference which Jay's reply buttresses: "Your ideas of men and things...run, for the most part, parallel with my own...." Rutledge to Jay, 29 June 1776, Jay to Rutledge, 6 July 1776, Johnston, op. cit., I, 67, 68; Edmund C. Burnett, ed., Letters of Members of the Continental Congress, I, 517 (hereafter cited as Letters).

When the Continental Congress resumed the discussion July 1, the New Yorkers assured their colleagues that they approved the declaration and "were assured their constituents were for it." McKean of Delaware, long after the event, positively stated that Wisner voted for independence July 2. Since New York cast no vote, he may have meant that Wisner approved independence. Burnett, Continental Congress, p. 184; Julian P. Boyd, et al., eds., The Papers of Thomas Jefferson, I, 314; Burnett, Letters, I, no. 753, n. 3.

The June 8 letter of the New Yorkers contained this interpretation of their authority: "Some of us consider ourselves as bound by our instructions not to vote on that question...." Since none of them seem to have been thinking of voting yes, the implication is that some thought they had power to vote no. Jour. Prov. Cong., I, 488. For a different view, see Becker, op. cit., p. 271.

2. Jefferson's Notes of Proceedings in the Continental Congress, Boyd, op. cit., I, 309; Rutledge to Jay, 8 June 1776, Johnston, op. cit., I, 66, n. 1.

letter reached the city on the morning of June 10, Congress promptly resolved itself into secret session to deliberate on the matter, but it deliberated inconclusively.¹ Late that afternoon the deputies wrestled again with the problem, wrangling over the interpretation of Congress's powers, the continental delegates' powers, and the election resolutions of May 31. The latter reference provided Jay with a stratagem to postpone any decision until the new Congress would meet in July. On the next day he introduced two resolutions which the congressmen amended and passed unanimously. The first of these declared

That the good people of this Colony have not, in the opinion of this Congress, authorized this Congress or the Delegates of this Colony...to declare this Colony to be and continue independent of the Crown of Great Britain.²

The second resolve proposed that the people at the June election invest their representatives with sweeping discretionary power

to deliberate and determine on every question whatsoever that may concern or affect the interest of this Colony, and to conclude upon, ordain, and execute every act and measure which to them shall appear conducive to the happiness, security and welfare of this Colony....³

The final clause recommended the electors to "inform" their deputies of their "sentiments" on independence.

1. Jour. Prov. Cong., I, 488. The resort to secrecy is a cardinal indication of the majority's attitude toward independence.

2. Ibid., I, 489, 490. See Becker, op. cit., pp. 271-72 and n. 103.

3. Jour. Prov. Cong., I, 490.

Having blocked any positive action until July, Congress reversed itself and nullified its unanimous agreement. It voted to postpone publication of the resolutions until after the elections. Since the resolutions could not take effect without the elections, Congress would have to revise the former at a later date to provide for a special referendum. If this were not true, the motion to postpone publication renders the resolves meaningless.¹ The parliamentary meaning of the postponement was that Congress had moved to reconsider the previously adopted motions. However, such immediate reconsideration was a violation of rule six of the Congress's own rules of procedure:

That after the determination of any matter or thing, the same shall not be resumed but with the consent of such majority as aforesaid, upon notice of a motion for that purpose, previously given at least one day before the same is made.²

Nevertheless, after empowering Jay and Remsen to "draft an answer" for the direction of the Philadelphia deputies, the house dropped the whole subject.³

The Jay-Remsen draft denied the colony's delegates any authority to vote on independence. If Congress formally approved the letter, it did not record its action in the Journal. The reply reiterated the sense of the first resolution on the lack of power to act. It professed to see that the question of independence would be divisive and

1. Becker, op. cit., p. 272, n. 103. The letter to Philadelphia specifically states that a later election will be held on the question of independence. Force, op. cit., 4th Ser., VI, 814.

2. Underscoring mine. The rules adopted by the Third Congress are in the Journal, I, 450.

3. Ibid., I, 490.

would exercise "an unhappy influence" on the cognate question of a new government should both problems be submitted simultaneously to the electorate. Hence it would be "imprudent" to obtrude the first matter
¹
 upon the people. Congress assured their representatives:

the earliest opportunity will, however, be embraced of ascertaining the sentiments of the inhabitants of this Colony on that important question....²

Since Livingston and his associates in Philadelphia knew that the Continental Congress would resume the subject of independence July 1, this information from New York must have made it clear that they would be without power to vote on the question. The delegates knew that the scheduled elections would occupy the third, if not also the fourth, week of June. They could not receive their authorization to vote, based on an independence referendum, before July 1. Proof of the delegates' knowledge of the situation in New York derives from the following. Jay specifically promised Livingston that he should have the "earliest advice" of the May 31 resolutions on forming a government. Two of the delegation, Alsop and Lewis, who had visited home, did not set out for Philadelphia until June 1, so they possessed all the necessary information. Moreover, Gouverneur Morris arrived in Philadelphia June 10, so there
³
 was no dearth of news from the Provincial Congress. Nonetheless, when

1. Force, op. cit., 4th Ser., VI, 814; Becker, op. cit., p. 271. Becker incorrectly uses "inexpedient" for "imprudent."

2. Force, loc. cit.

3. Jay to Livingston, 29 May 1776, Johnston, op. cit., I, 64, 65. On Morris's presence in Philadelphia, Hancock to Provincial Congress, 11 June 1776, Burnett, Letters, I, 484. Lewis, et al. to President of Provincial Congress, 17 June 1776, Jour. Prov. Cong., II, 197.

the delegates acknowledged receipt of this letter, they did not inform the Provincial Congress of their lack of time, nor did they exhort that body to move swiftly to hold the referendum.

The New York delegation's comportment contrasted unfavorably with that of the Maryland delegation. Writing to their council of safety, the Marylanders observed that Congress had delayed a vote on independence for three weeks in order to give some delegations an opportunity to consult their "constituents." They urged the council to call the convention into session that that body might express the sense of the people on the subject. As late as June 27 the New Yorkers had occasion to correspond with their Congress, but made absolutely no¹ mention of the impending deadline.

If the Provincial Congress could demonstrate its ignorance of the events in Philadelphia, it might technically justify its actions, but the contrary is the case. Rutledge wrote Jay on June 8 describing the course of the arguments and telling of his fear of being unable to block a victory for independence. It is possible even that Rutledge dispatched his letter in care of the same express rider who carried the New York delegation's letter of the same date. In that event Jay would have received it June 10. Even if this were not true, there is other evidence to consider. When the Continental Congress suspended discussion of the question, it appointed a committee to draft a declaration and set July for resumption of the argument. Since Morris was present

1. Maryland delegates to Maryland Council of Safety, 11 June 1776, Burnett, Letters, I, 484; Jour. Prov. Cong., II, 238.

in Philadelphia from the final day of debate, June 10, until June 13, it is inconceivable that Livingston, a close friend, did not tell him of the whole business. Indeed, Morris may very well have attended Congress, since he bore a special letter from New York to the President of Congress. In view of the fact that in May Morris had urged the necessity of independence, it is remarkable that upon his return to New York on June 15 he made no effort to reintroduce the matter in Provincial Congress. Thus at least two leading members of the New York Provincial Congress were cognizant of the crucial nature of affairs in Philadelphia, but did nothing to enable their delegation to participate in the voting.¹

Although the June elections came and went, no one in Congress moved to reconsider the resolutions of June 11. Indeed June faded into July without a word on the subject. Whatever the intentions of the congressmen may have been, their conduct displayed a dubious standard of responsibility toward their constituents. It will be recalled that they had implied to the people that they would instruct the colony's delegates when the question arose on the floor of the Continental Congress.² But they did not fulfill their promise.³ When the British invasion fleet hove in sight, Congress hastily adjourned and voted to meet in White Plains July 2. Jay, who was in Elizabeth Town, reacted angrily to this news:

1. Johnston, op. cit., I, 66, n. 1; Jour. Prov. Cong., I, 496.

2. See above pp. 129-30.

3. Becker, op. cit., p. 273; Jour. Prov. Cong., I, 512.

to my great mortification am informed that our convention influenced by one of G. Morris vagrant Plans have adjourned to the White Plains to meet there Tomorrow. This precipitate ill advised Retreat I fear will be not a little injurious to the publick....This Stroke of Morrisania Politics quite confounds me.¹

Not being able to assemble a quorum on July 2, the Third Provincial Congress expired without committing the colony to independence.

These Fabian tactics probably owed part of their success to the disorganized state of the city. Washington had converted the port into an armed camp, and most of the able-bodied males were in the army. By June most of the non-combatant population had left the city for safer regions. In this abnormal state, the radicals could not have brought decisive pressure to bear on Congress. Furthermore, the revelations of the Tory plot monopolized so much attention and energy that there was little opportunity to call public meetings on the ques-
²tion of independence. Elsewhere in the province, perhaps the lack of strong leadership by Congress on this issue retarded any independent steps by the people. Be it noted, however, that in some districts in Albany County the people seized the initiative and voted for independence
³on June 24. Elbridge Gerry of Massachusetts thought that the people of the colony had outstripped their political leaders:

1. Jay to Livingston, 1 July 1776, quoted in Frank Monaghan, John Jay, p. 83; Unpublished Corr. R. R. Livingston, no. 27.

2. Nettels, Washington, pp. 291-94.

3. At King's District "a full meeting of the inhabitants" voted unanimously for independence. A similar meeting occurred in Spencer Town. N. Y. P., 4 July 1776; Force, op. cit., 4th Ser., VI, 1056.

I do not affirm that either of these [i.e., New York and Maryland] are of the neuter gender; but on the other hand am persuaded the people are in favour of a total and final separation, and will support the measure, even if the Conventions and Delegates of those Colonies vote against it.¹

If popular opinion approved independence, why did the Congress
 2
 shy away at the mention of the word? Many of the influential person-
 ages may have felt as did Livingston:

though at present I wish to join hands with a nation
 which I have been accustomed to respect, yet I am
 persuaded that the continuance of the war will break
 my shackles....³

1. Gerry to James Warren, 25 June 1776, ibid., 4th Ser., VI, 1067.

2. Becker, op. cit., pp. 272-73 sums up the situation in this manner:
 "The cause was simple: affairs in that province were directed by cautious and conservative politicians, who, in the face of an armed foe and surrounded by domestic enemies, were determined to preserve the essential features of their ancient political system from what they conceived to be monarchical encroachments on the one hand, as well as from rash democratic experiments on the other. And this achievement, if it could be effected, they were determined should be formally declared by the colony and not by the United Colonies.

"How much weight the latter consideration had, it is impossible to say."

By June of 1776 the threat of "monarchical encroachments" no longer had any bearing on whether to hasten or delay independence. As Becker himself admitted (p. 266) the Continental resolutions of May 15 "could have but one sequel, the declaration of independence...." Thus when New York approved these resolutions May 31, the conservatives accepted the same destiny. Furthermore, as the above pages have shown, the New York leaders privately had seen the logic of events, but other factors deterred them. The latter part of Becker's argument is difficult to follow. The only way in which New York could preserve for itself the right to declare independence would be to do so before the Continental Congress, as did Rhode Island in May. If the Yorkers thought that their opposition would prevent the Congress from acting, they ran the risk of isolating their colony. With the Continental Army occupying New York, such a policy would indeed have been rash, and rashness was not characteristic of these men.

3. Livingston to Duane, 16 February 1776, Bancroft Transcripts: Livingston Papers, NYPL.

Accompanying this reluctance to break with tradition was a realization of the war's cost in lives and property. Furthermore, since their leaders asked the people to make these sacrifices for the sake of freedom, might not internal disturbances arise over questions of local reform? Some symptoms of discontent had appeared already.¹ In the critical days of late June "Spartanus" had warned newspaper readers to beware of those who have dragged their heels but now "speak fair." Let them gain power, he wrote, and they will subject the people "to a tyranny and oppression...not much better" than the British.² Early in 1775 William Smith cautioned Schuyler about the hazards of a Pandora's box:

1. Some of the Dutchess County tenantry were demanding improved leases. Henry B. to R. R. Livingston, May, 1775, Unpublished Corr. R. R. Livingston, no. 30.

The method of choosing the continental deputies became a controversial matter. In 1775 some of the counties chose their own representatives for Continental Congress, but the Provincial Convention over-ruled these choices and selected a representation for the whole province. The issue rose again in 1776 when the Mechanics demanded that right for the people. So bitter was the controversy in Ulster County that the Provincial Congress had to choose between two sets of credentials; one of which reserved the right to elect continental deputies to the people, the other authorized the provincial deputies to do so. None of these challenges succeeded. Becker, op. cit., p. 256; N. Y. J., 24 August 1775, 4 April 1776; Jay to McDougall, 11 April 1776, McDougall Papers, NYHS; Jour. Prov. Cong., I, 460, II, 199-200. See below pp. 68-71.

Some of the local committees ignored the property qualifications for voting. Min. Albany Com., II, 1030. On the same subject, Robert G. Livingston to Gilbert Livingston, 1 January 1782, Gilbert Livingston Papers, NYPL.

The practice of voting by secret ballot took root in some counties. New York General Committee to the People, N. Y. J., 11 April 1776; Robert Boyd, Jr. to Clinton, 3 July 1776, Clinton Papers, I, 244.

2. Quoted in Becker, op. cit., p. 267; "Spartanus," N. Y. J., 20 June 1775; Force, op. cit., 4th Ser., VI, 996.

Why raise a military spirit that may furnish unmanageable adventurers on this side of the water unfriendly to a province in which you and I have something else to lose?¹

Duane expressed concern about "licentiousness" and the "means of as-
suring the Reins of Government when these Commotions shall subside."²

McDougall worried over the dual dangers of the "licentiousness of the people" and of the army. "The former feel their own liberty in the extreme," he wrote to Jay; a sentiment with which the latter concurred.³

Probably one of the chief reasons for the hyper-caution of the New Yorkers in Congress was their fear that the consequences of an unsuccessful rebellion would be confiscation and execution. John Adams, Lee and Wythe accused New York of hanging back "that their particular prospect might be better even in the worst event."⁴ In a private conversation with McDougall, William Smith remarked in passing on the risks

1. Smith to Schuyler, 16 May 1775, Schuyler Papers, NYPL; Lossing, Schuyler, I, 321-22.

Two months later Schuyler incorporated a draft by Smith in orders issued to the troops in New York City. Among the ideas voiced was this: "Let us evince to the world that in contending for liberty we abhor licentiousness...." Smith, Memoirs, IV, 3 July 1775; Lossing, Schuyler, I, 346.

2. Duane to Robert Livingston, Jr., 7 June 1775, quoted in Beverly McAnear, "Mr. Robert R. Livingston's Reasons against a Land Tax," Journal of Political Economy, 48:76.

3. McDougall to Jay, 20 March 1776, Jay to McDougall, 23 March 1776, Jay Papers, CUL; Johnston, op. cit., I, 49-50. Smith says McDougall told him in February that he opposed independence. Smith, Memoirs, V, 12 February 1776, NYPL.

Livingston once commented that the leaders must "yield to the torrent as they hoped to direct its course." Livingston to Duer, 12 June 1777, R. R. Livingston Collection, NYHS.

4. Jefferson's Notes of Proceedings in the Continental Congress, Boyd, op. cit., I, 312.

to which the Whig leaders exposed themselves, noting "the wrath manifested in the King's speech agt them as the misleaders of his American subjects."¹ Although the British no longer exercised authority in the province by the summer of 1775, Admiral Graves wrote home that "there are many in [the violent party] who wish to keep the peace in New York on account of their property."² That fall a Tory merchant declared that the Whigs of "prosperity are afraid of these estates, and are coming about fast."³

Some patriots prudently left the danger zones at critical moments. When Howe appeared before New York, some Whigs departed hurriedly. Among others, Philip Livingston left the Third Congress rather abruptly. According to Jay, he gave no other reason than that he was going to Philadelphia. "The ways of some men like Solomons Serpent on a Rock, are past finding out," Jay concluded disgustedly.⁴ After the loss of New York in September, 1776 the conduct of Gouverneur and General Lewis Morris caused bitter complaint. Robert R. Livingston wrote to Edward Rutledge of South Carolina:

Gouverneur thro' what cause God alone knows has deserted in this hour of danger retired to some obscure corner of the Jerseys where he enjoys his jest and his ease while his friends are struggling with every difficulty and danger & blushing while they make those apologies for him which they do not themselves believe.⁵

1. William Smith, *Memoirs*, V, 8 January 1776, NYPL.

2. Graves to Stephens, 16 July 1775, Cal. H. O. Papers, p. 394.

3. V. P. Ashfield to Isaac Wilkins, 4 November 1775, ibid., p. 482.

4. Jay to R. R. Livingston, 1 July 1776, Unpublished Corr. of R. R. Livingston, no. 27.

5. Livingston to Edward Rutledge, 10 October 1776, *Bancroft Transcripts: Livingston Papers*, NYPL.

Lewis Morris's behavior provoked comment in Westchester and in the Convention. The Convention had granted him a few days leave to see to his family in Philadelphia upon his express promise to return promptly to his militia regiment. The general not only violated his word, but implied to the Continental delegates that he had come to Philadelphia on Convention business. Since he evaded the Convention's requests to return to the state, that body peremptorily ordered him home. Rutledge gave this account of Morris's presence in Philadelphia:

he left us near three weeks since from some hints which his friends here took the liberty of giving him, and declared he would never return until he had conquered it [i.e., fear]. Should he be worse than his word & pay us another Visit, I'll answer for him that he will not stay here above two Days to rest himself. Indeed I much doubt whether he will be able to call those, Days of rest, for I will immediately make a Party to plague his very heart out. Philadelphia shall not be a place of Safety for him I assure you.¹

Having committed themselves to independence, the Whigs prepared themselves for misfortune. Robert R. Livingston explained,

I am amazed at the composure I feel tho' I have everything at stake, & the enemy are already in actual possession of one third of my income.²

1. Rutledge to Livingston, 19 October 1776, ibid.; Jour. Prov. Cong., I, 666; Morris to Convention, 24 September 1776, Force, op. cit., 5th Ser. III, 211.

2. Livingston to Rutledge, 27 September 1776, Unpublished Corr. R. R. Livingston, no. 95. In a later letter to Rutledge he depicted graphically the dangers of a revolutionary career: "Every day discovers new plotts a regular plan was formed to carry me off, headed by a relation and only defeated by a discovery that very night in which it was to have been executed. Bullets have been shot at night into the very beds of some of our active people & others been fired at & wound'd on the ambush." Same to same, 10 October 1776, Bancroft Transcripts: Livingston Papers, NYPL.

The grim prospect of capture by the British induced fearsome thoughts among many. Gouverneur Morris in 1777, describing the impact on the first legislature of the American defeats in the mid-Hudson which included the loss of Forts Constitution, Montgomery and Clinton, confessed, "We are hellishly frightened but don't say a word of that for we shall get our spirits again...."¹ One contemporary attributed the caution of the great landed families to property considerations: "Such extensive property is perhaps too great a stake to be risked in a struggle with a bold invader...."² The fears deriving from these factors exercised a marked influence on the members of the Provincial Congress and manifested themselves in the advocacy of a go-slow policy.

Although public opinion in the colony outran the revolutionary leaders, the zigging and zagging of the political leaders did not bring New York any closer to pacification. The exact opposite is true. However much John Adams might rail against the timidity of the Yorkers, every important step they took, however halting, was a step further down the road to independence. New York was "a nut in the jaws of a nut-cracker." British military strategy centered upon the capture of the province by an attack from Canada as well as from the sea. With these military threats hanging over the province, it is understandable why New York was not in the van of the revolutionary movement.

1. Morris's underscoring. Morris to R. R. Livingston, 8 October 1777, R. R. Livingston Collection, NYHS.

2. "The Real Farmer," N. Y. J., 1 February 1779.

CHAPTER V

CONGRESSIONAL GOVERNMENT PRIOR TO THE CONSTITUTION OF 1777

The Provincial Congress was the nerve-center of the revolutionary movement. Its formation greatly strengthened the Whigs in that it united under central direction the county and local committees who lacked overall authority. Since many of the leading patriots served in the Congress, the Whigs looked to that body for direction. This support in turn enabled the provisional legislature to mobilize the citizenry and their resources. Furthermore, the Whigs now had the means to apply uniform policies throughout the counties. Equally important, the Congress could and did speak in the name of the whole colony, constituting the only significant group with whom the British could negotiate. Lastly, the Provincial Congress replaced the royal administration as the governing authority.

Although the Tories labored mightily to block the calling of a congress, they had toiled in vain even before the news of Lexington reached New York. When the colonial assembly had refused to name representatives to the Second Continental Congress, the moderates and radicals in the city Committee of Sixty had cooperated to push through a call for the election in April of a provincial convention which would meet solely to choose the Continental delegates. The Provincial Convention met in New York City April 20, 1775, completed its business and dissolved April 22. When the news from New England arrived in

town the next day, the conditions requisite for summoning a congress¹ had matured. On April 28 the City Committee appealed to the counties to elect deputies to represent them in a provincial congress to assemble in May. The Committee's circular letter justified the call by painting a grim picture:

The distressed and alarming situation of our country,... threatening to involve this Continent in all the horrors of a civil war, obliges us to call for the united aid and council of the Colony....²

When the colony completed the balloting, either by direct choice or by the local committees, it had deputed 113 men to attend the First Provincial Congress. Not all of these counted themselves Whigs and eventually nineteen joined the loyalists. Although the election circular had set May 22 for the opening of the First Congress, a majority of the county delegations did not appear until the next day. Some of the absentees came in later in the session, but Gloucester County did not send a deputation at any time. Individual attendance left much to be desired and the numerous absences impeded the legislature's effective operation. From May through July attendance ranged³ from a low of 42 to a high of 82.

According to the rules of procedure drawn up by the Congress, a majority of the counties constituted a quorum. Moreover, each county

1. Becker, op. cit., pp. 193, 201.

2. Cal. Hist. Mas., I, 4.

3. Becker, op. cit., p. 208.

had to have a quorum of its delegation present in order to be able to vote. Definition of the quorum varied from county to county, some requiring a delegation majority, others from one to four men. Since the counties cast unit votes, each deputation had to decide the county's position first before voting. The apportionment of voting strength followed debate and dickering among the counties. The resultant compromise gave New York four votes, Albany three and the other counties two each.¹

Having established a framework within which to labor, the Congress began to tackle the multitudinous problems that led it to exercise the power forfeited by the royal government. Although the members wrestled with many pressing questions, they devoted most time to those relating to military preparations, the Tories, and finances. Plagued by decreasing attendance, the Congress adopted a suggestion of the Continental Congress to transfer its authority to a committee of safety for a stated period. Each county had one vote on this committee except New York which had two. All of the committee's acts were subject to ultimate approval by the Congress. This device permitted the Congress to adjourn for the months of July and September² but to leave a functioning government in being.

By October the First Congress prepared to end its life and passed resolutions for that purpose. It named November 7, 1775 election day for the choice of representatives to the Second Congress. It

1. Ibid., pp. 207-08; Jour. Prov. Cong., I, 8.

2. Flick, Hist. N. Y., III, 263.

proposed to dissolve November 14, the day its successor convened. Having defeated a suggestion to use the written ballot, the majority relented and extended the suffrage to nonfreeholders who held lands assessed at £80. Notwithstanding its November 14 deadline, the Congress¹ broke up in confusion November 4.

Congress, however, did not assemble on November 14. In fact it did not have a quorum until December 6. Despite this inauspicious beginning, the Whigs congratulated themselves on the new membership of the Congress. The local committees had dropped 39 former delegates in favor of more ardent patriots, or so they thought. During most of its life the Second Congress remained adjourned, having created a committee of safety to carry on. Thus it fell to the lot of the Committee of Safety to accede in the middle of April, 1776 to Washington's demand for the isolation of the British warships in the harbor. Although some of the radical Whigs grumbled over the slow progress of military preparations, by spring they had less cause to complain as the presence of the Continental Army in New York pressured the Committee of Safety into more vigorous exertions. Before its March adjournment the Congress provided for the election of the Third Congress in April and its² own dissolution May 14.

A further weeding out process occurred in the April, 1776 balloting; no less than 32 members of the Second Congress yielded their seats to new men. The number of Tories, however, remained

1. See above pp. 68-71; Becker, op. cit., p. 227.

2. Ibid., pp. 232-35, 252.

almost constant at eight. All the counties chose deputies and revised downward the number necessary to form a delegation quorum. Consequently, the Third Congress did not have to wrestle with the quorum issue. A change in the distribution of the unit votes increased New York's share from one-seventh to one-sixth of the total. The new arrangement gave New York eight votes, Albany six, Dutchess five, Suffolk four, Ulster four, Westchester four, Queens four, Orange and Tryon three each, Kings, Richmond, Charlotte and Cumberland two each, and Gloucester one.

Although this Congress had a brief existence, it considered three key problems: suppression of the Tories, instructions to its delegates at the Continental Congress on the question of independence, and the formation of a new governmental structure for the colony. A majority deemed it best to refer the last issue to the people, calling for the election in June of a new Congress with power to draw up a constitution. When General Sir William Howe appeared off New York at the end of June, the Third Congress adjourned June 30, 1776 to reconvene July 2 at White Plains. Since it could not muster a quorum¹ at White Plains, the Third Congress gave way to its successor.

Many of the changes in the personnel of the Fourth Congress were a result of a decrease in the size of the delegations. Whereas the Third Congress had a nominal membership of 136, the Fourth had only 106. Fully 13 of the 30 who did not serve again had represented the

1. Ibid., pp. 259-61, 273.

three counties (Kings, Queens, Richmond) which the Tories largely controlled. Only eight of the congressmen were new members.¹ Since the Continental Congress had declared independence, the Fourth Provincial Congress joined the other colonies in independence on the first day of its meeting, July 9. In accordance with its new status, the Congress transformed itself into the Convention on July 10.

Thus opened the most difficult period in the history of the state's provisional governments. The Convention had to govern the state, conduct the war, write a constitution and stay out of the hands of the British invaders, all of this in the midst of a series of major American defeats and retreats from southern New York in 1776-77. In this confusion the Convention appointed a committee of safety to assume its functions and the committee sat for most of the ten months of the Convention's life, July, 1776-May, 1777.²

The two years from May, 1775-May, 1777 witnessed the steady elaboration of congressional government. The Congress, of course, worked out specific policies and often depended upon the county and local committees to execute them. At the commencement of the first session Congress assumed the subordination of the local bodies to its authority when it directed the formation of committees where non-existent to enforce the resolutions of the Continental and Provincial

1. Jour. Prov. Cong., I, 516-931; Edgar A. Werner, Civil List and Constitutional History of the Colony and State of New York (1888 ed.), pp. 408-09. Becker mistakenly states that about one-third of the Fourth Congress were new men. Op. cit., p. 274.

2. Jour. Prov. Cong., I, 579-824.

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 Congresses. On numerous occasions the deputies created special committees to carry through their plans, but sometimes, when key men served on more than one committee, this practice precipitated a personnel crisis. For example, Congress appointed Jay, R. R. Livingston and Robert Yates to a secret committee to obstruct the Hudson to the British, but in August also put them on the constitutional committee. Since the trio neglected the latter for the former, the constitutional committee accomplished nothing for some time. 2 In this fashion Congress extended its authority over key areas of government. It exercised jurisdiction, for example, over raising, equipping and supplying the army, finance, suppression of the loyalists and seizure of their property, confederal relations and Indian affairs.

Military preparations naturally absorbed much of the time and energy of the delegates. Raising an army involved the organization of three types of units. The Continental Congress directed the formation of the regular units, the line regiments, but the colonies nominated their officers and actually recruited them. New York authorized the first recruiting campaign June 28, 1775. The five regiments that resulted participated in the ill-fated Canadian expedition 1775-76. Since the men's enlistments expired December 31, 1775, their units underwent reorganization after the campaign. When the Congress prepared to raise four more regiments in January, 1776, the deputies differed over the selection of the officers. They resolved their

1. Becker, op. cit., p. 212; Jour. Prov. Cong., I, 18.

2. See below pp. 191-92.

differences by circularizing the counties, requesting the county committees to nominate two persons for each position. In their first efforts in February to raise the regular regiments Congress worked out quotas for each county, but in December they revised their procedure. They appointed the officers, then assigned them recruiting¹ districts in each county.

The militia comprised the second component of the armed services. Although the Continental Congress advised New York in May, 1775 to commence planning its militia organization, the First Congress did no more than to appoint a committee to consider the situation. Not until August 9 did the much-revised committee hand in a report which Congress approved. Five days later the legislature published its detailed resolutions, governing the organization, training, discipline and pay of the troops. They set the strength of the basic unit, the company, at about 83 officers and men. Five to ten companies joined to compose a regiment, each county having one or more regiments. The regiments combined to form the colony's six brigades, commanded by a major-general. In addition there were previously in being certain independent formations (hussars, artillery, grenadiers) which retained their existing structures. The men chose their own officers below the rank of major, leaving to Congress the appointment of the field ranks. When the companies had organized, one-fourth of the company's number volunteered as minute men. These volunteers constituted minute

1. A. C. Flick, The American Revolution in New York, pp. 133-34 (hereafter cited as Am. Rev.); Jour. Prov. Cong. I, 268-69, 306-07, 712-13.

1

companies which might be called into action immediately.

The rules required each man to provide himself with "a good musket or firelock and bayonet, sword or tomahawk, a steel ramrod, worm, priming wire and brush,...a cartouch box, to contain twenty-three rounds of cartridges, twelve flints and a knapsack...." The militiaman had to supply his own ammunition, a pound of powder and three pounds of bullets. Having accoutered himself, the part-time soldier had to train one day a month for four hours. Since the larger units needed experience also, the regiments would mobilize "at least two days in every year." Penalties for disobedience and refusal to serve ranged from fines to imprisonment. Those who would not enlist would suffer advertisement as enemies to their country.

2

Congress dispatched circular letters of militia instructions in August to the county committees and the latter commenced the task of actual militia organization. Since Congress did not vigorously press the matter, these activities proceeded at a very uneven rate. Suffice it to say that by the close of 1775, most of the counties had completed some part if not all of their assignment. Many problems arose and compelled the Congress to amend the militia law in December, 1775. Some of the regulations in respect to the election of officers, training, brigading and minute men underwent modification. This re-

1. Flick, Am. Rev., pp. 138-39; Jour. Prov. Cong., I, 16, 21, 69, 103, 104, 114-15.

2. Flick, Am. Rev., p. 139; Jour. Prov. Cong., I, 114, 115.

mained the basic statute until June, 1776, when Congress again revised¹ it, abolishing the minute men.

The third component of the armed forces, denominated levies, did not have a separate organization. When the military situation demanded it, the government ordered a portion of the militia into the field for a specific period of time. These constituted the levies. If volunteers did not fill the quotas, the counties drafted the necessary numbers.²

New York did not neglect the other branch of service, the navy. The colony had no ships of the line, but it did encourage privateering. A clear picture of the privateers' operations cannot be found, but about a dozen of them took to the seas in the period under consideration. One of them, the Montgomery, captured eight prizes by 1777 with a total value of £11,000.³

When Congress plunged into the intricate task of supplying and equipping the army, it encountered bewildering problems of every description. Not only did the state lack manufactured goods essential to the prosecution of the war, but also it experienced great difficulties in procuring and transporting its abundant agricultural commodities to the camps or supply bases. Furthermore, despite the heroic

1. Flick, Am. Rev., pp. 140-41; Jour. Prov. Cong., I, 135, 139, 152; Cal. Hist. Mss., I, 38, 61, 83, 84, 85, 119, 120, 121, 122, 123, 127, 132, 133, 134, 135, 138, 144, 145, 147, 148, 149, 158, 164, 169, 177, 193, 198, 261.

2. Flick, Am. Rev., pp. 141-43.

3. Ibid., pp. 145-47; Jour. Prov. Cong., I, 859, 915.

labors of devoted officials, a certain amount of speculation and speculation impeded the functioning of the supply services. Noting these circumstances, Schuyler remarked to Jay that military spending in the Northern Department alone ran at five times the annual rate of the most expensive year in the previous colonial war.¹

Since the Provincial Congress failed completely to grasp either the magnitude or the nature of the supply problem, the delegates reacted spasmodically, moved to action by especially urgent situations. Congress took the first step to create a commissariat at the direction of the Continental Congress. The latter body resolved to have New York furnish provisions and stores for the newly captured forts at Crown Point and Ticonderoga. On June 2, 1775 the revolutionary legislature offered the position of commissary to Peter T. Curtenius, New York merchant. The scope of the resolutions implied that Curtenius would be employed to purchase other supplies as the Congress desired.² For his services the commissary received a 1-1/2 percent commission if he spent his own funds, or a one percent commission if he expended congressional funds. If he spent his own money, Congress would allow him lawful interest for its use. Finally, Curtenius would obtain reimbursement for all expenses.³ Having selected a purchasing agent, Congress, the next day, presented him with a large order which they directed him to

1. Schuyler to Jay, 1 February 1777, Jay Papers, CUL.

2. Jour. Prov. Cong., I, 27.

3. Flick, Am. Rev., p. 181; Jour. Prov. Cong., loc. cit.

forward to Lake George. Among the items Curtenius set out to procure, 1000 pounds of oakum represented the largest quantity, but he also had¹ to hire artificers and seamen for the same destination.

When occasion demanded, Congress by-passed their commissary and appointed a committee of their members to fulfill certain tasks. An incident of this nature arose during the first few weeks of Curtenius's tenure. The Continental Congress instructed the New Yorkers with admonitions of secrecy to provide 5,000 barrels of flour for the army near Boston. Congress promptly chose Sears, Abraham Walton and Joseph² Hallet to carry out the project.

Even though his staff grew commensurately, Curtenius's responsibilities multiplied so rapidly they exceeded his ability to discharge them effectively. He had under his direction one agent, three deputies, seventeen subcommissaries, eight commissaries of purchases and numerous storekeepers and clerks. Although the supply service had become complicated, Congress did nothing to simplify its organization until events forced the legislators to do so. When General Charles Lee arrived in February, 1776 to fortify the city, apparently he or his staff "suggested" that the Committee of Safety appoint a special issuing military commissary to have charge of all army stores in New York County. The Committee complied and instructed Curtenius to transfer such stores to³ Richard Norwood whom they appointed to the new post.

1. Ibid., I, 28. Flick, Am. Rev., p. 182 refers to a later order as the earliest.

2. Jour. Prov. Cong., I, 39-40.

3. Ibid., I, 290.

When New York and Continental troops began to pour into the city in February, 1776, the Congress requested Curtenius to supply the necessary rations, but the commissary declined. Accepting Curtenius's explanation of the pressure of his duties, the legislature turned to Abraham Livingston to fill the gap. Livingston operated under a contract with the Congress, but his duties did not carry through until the end of the provisional government. Since the state's militia operated under the command of the Continental commander in New York City and similarly later in the Northern Department, most of the victualling contracts came under the jurisdiction of the Continental Army. When the militia remained under the state's authority, one of the numerous commissaries contracted for the rations.¹

The difficulty of supplying the troops with adequate clothing provoked the Committee of Safety to take steps ultimately to reform that aspect of the service. Prior to this time Curtenius and others bought semi-finished and finished goods. Late in 1776 the Committee initiated tentative steps to establish a state clothing store, but its organization did not reach fruition until the appointment of John Henry² as State Clothier in February, 1777 at a salary of 10s. per diem.

The Convention further modified the system in May, 1777 when it charged John Lasher with complete authority over all military stores. To the rank of colonel the deputies attached a salary of £200 per annum and expenses and empowered him to impress teams and carriages if necessary.

1. Ibid., I, 303, 315, 360, 362, 365, 367, 388, 405, 436, 761.

2. Flick, Am. Rev., p. 187; Jour. Prov. Cong., I, 695, 698, 807.

At the same time they chose David Currie to furnish the troops with items not supplied by the commissariat. In this category fell wine, beer, sugar, chocolate, coffee, tobacco and staples. The Convention¹ allowed Currie three dollars a day and expenses.

The acute shortage of guns, cannon and ammunition compelled the Congress frequently to resort to various expedients to procure desired quantities. The state had few skilled gunsmiths upon whom to rely, but did contract with these few to manufacture specific quantities. Congress sought to import arms and powder, appropriating £4,000 for the purpose in September, 1775. Driven to seek other alternatives by the continuing shortage, Congress in March, 1776 resolved to loan £200 without interest to anyone who would produce the greatest number of gunlocks and to give a premium of 4s. on each piece to the producers. Similarly, the delegates sought to stimulate the manufacture of gun barrels and bayonets. Exertions to secure light and heavy cannon encountered similar obstacles. On one occasion, despite the pressing need, Congress rejected a contract for brass cannon because the price of 4s. a pound was too high. On the other hand, lack of skilled labor, and uncertainty as to the needed quantity caused the Committee of Safety to forego the employment of Robert Livingston, Jr.'s foundry for casting heavy cannon. Exorbitant prices did not always deter the Congress from accepting a contract. A critical lack² of grapeshot caused the legislature to pay double the market price.

1. Flick, Hist. N. Y., IV, 133; Jour. Prov. Cong., I, 920.

2. Flick, Hist. N. Y., IV, 135-36; Jour. Prov. Cong., I, 148, 268, 307, 358, 363-64; Force, op. cit., 4th Ser., V, 278-79.

Insufficient quantities of two other products closely associated with munitions, lead and powder, plagued the revolutionaries. Congress directed Curtenius to collect the lead window weights of private dwellings, promising later compensation. In this manner Curtenius received more than 100 tons. The state promoted the search for, and working of lead mines, but none of these attempts proved fruitful. Bounties and loans produced a more favorable situation in regard to powder. Venturous individuals erected a number of powder mills, but at first the mills could not manufacture rapidly because of the scarcity of sulphur and saltpeter. Again the state intervened to promote the location of sulphur deposits and the production of the latter. Both efforts succeeded. Sulphur mined in Tryon County became the mainstay and saltpeter from small shops and¹ households tended to relieve the shortage in that article.

The state looked to its own resources for adequate supplies of hemp, flax and wool. Under the advice of the Continental Congress, New York in April, 1776 pleaded with its farmers to increase the acreage of hemp and flax and to increase and improve the breed of their sheep. Even prior to this action, Congress had voted \$1,333 to hire the poor of the city to spin flax. In October, 1776 the Convention selected a committee to provide work in weaving and spinning for the New York City refugees. Such improvisations produced a considerable

1. Flick, Hist. N. Y., IV, 138-41. Measures to import powder encountered price difficulties and occasional congressional reluctance to pay extravagant prices. See the case of Nicholas Low, Jour. Prov. Cong., I, 235, 241, 254, 340, 502.

quantity of cloth. The state imported hempseed in large quantity and distributed it to the farmers without charge.¹

Given the scope of the task and the inexperience of officials, it is no surprise that confusion and waste loomed large. A large portion of the provisional government's expenditures for 1775-77 went to pay for the huge quantities of these supplies discussed above. In these two years Congress spent at least £500,000 for all purposes.² It is to the credit of the government that it managed to achieve what it did.

From the outset the revolutionary government contended with two deficiencies, guns and funds. The preceding discussion outlined the problems of the former, but did not touch upon the question of finances. When the need for funds arose, the congressmen pledged their personal wealth as security. Obviously, the delegates would not bankrupt themselves to finance revolutionary operations, so they had to find an alternative. The financial question thrust itself to the fore on the second day of the First Congress, May 23, 1775, when the delegates read a letter from the Continental Congress urging the removal of arms and stores from Fort Ticonderoga. After debating the matter, the delegates referred it to a committee for study. In its report the committee the next day suggested the appointment of a committee "to consider of ways and means for providing moneys" to accomplish the Ticonderoga task. Congress approved this report, but did not choose

1. Flick, Am. Rev. pp. 184-85; Jour. Prov. Cong., I, 414-15.

2. Treasurer's Accounts, 1775-78, NYHS.

a committee of ways and means. The inaction was not equivalent to a death sentence, however. It would seem probable that private discussion continued because on May 26, without a recorded motion or discussion, the house selected a committee to prepare a report on a Continental paper currency.¹ Simultaneously, the members drafted a letter to their representatives at Philadelphia, in which they stated that they had the financial question under study.

The letter and the later committee report are important, since they throw some light on attitudes toward taxation. The letter made two basic points. Considering the drift to war, the authors declared "an uncommon levy" of money would soon be a necessity for the Continental Congress and, therefore, the latter body would probably discuss the feasibility of paper currency. As to taxation, they wrote, "it is clearly impossible" to raise the requisite funds by this means. The committee reiterated this view in its report on May 30, insisting that the Continental Congress would have to issue some form of paper, and providing that each colony would have to sink its own share. Significantly, the house approved the committee's recommendations unanimously.²

There the matter rested for two months, when rapidly rising expenditures induced another plea to the men at Philadelphia. New York, the Congress asserted, had spent a large sum for Continental purposes and an equal amount for the province. Taxation, therefore,

1. Jour. Prov. Cong., I, 9, 10, 14.

2. Ibid., I, 14, 19, 20.

had become a necessity, but "prudence or policy" dictated the adoption of that mode which would be least liable to arouse "popular disgust or perhaps, opposition." The letter proposed an alternative which would have achieved two objectives. They asked that the Continental Congress repeal the ban on tea consumption, set a maximum price on it, and tax the vendor 1s. a pound. Since New York tea merchants had "a considerable quantity" of smuggled Dutch tea on hand, the ban's repeal would release their capital for investment in the importation of direly needed Dutch goods. Moreover, the brunt of this tax would fall on those who violated the Association, the "obstinate consumers" of the
¹ brew. This overture came to naught because the Yorkers failed to rally any other colony to their view.

Without waiting for a reply to their tea tax application of July 28, the delegates on August 5 voted another committee on ways and means to study financial measures. The Albany delegation informed its county committee that many congressmen favored an immediate tax, but it added that it could not say whether a levy would carry. Although the house listened to the committee's statement on August 11, it postponed a decision until August 15. It seems possible that the committee recommended a levy up to £30,000, but when recorded in the Journal weeks
² later, the report specified a minimum of £15,000. Since Congress did not discuss the matter again, despite its intention, until August 30,

1. Becker, op. cit., p. 217; Schlesinger, op. cit., p. 583; Jour. Prov. Cong., I, 92.

2. Becker, op. cit., p. 218; Jour. Prov. Cong., I, 101, 105. The Albany delegates, writing home immediately after the action of August 11, declared that the tax would raise a sum "not exceeding £30,000." Min. Albany Com., I, 185, 196.

perhaps growing opposition to the levy caused its proponents to compromise on the lower figure.

Led by Gilbert Livingston, the opponents successfully amended the report. They substituted an emission of \$45,000 in paper for the tax, committing Congress to fund by taxation one-third of the total each year over the next three years. Upon reconsideration the house voted to reduce the funding period to two years. The resolution directed the creation of the necessary tax officials, providing for supervisors, assessors and collectors. It granted the collectors authority to collect from defaulters by "distress upon the goods and chattels" thereof. Since the measure distributed the tax among the counties on a quota basis, the members sought to bargain for the lowest quota. The endless maneuvering brought on a deadlock which the First Congress¹ never resolved.

It is difficult to interpret the significance of the paper money triumph solely on the basis of the voting record. The counties cast unit votes and it is impossible to determine from the Journal how the members voted within the delegation to decide their county's ballot. Even though Albany, Ulster and Richmond voted against the bills of credit, it is questionable to conclude therefrom that these delegations² represented creditor groups. If we accept the sincerity of the deputies avowed intention to fund the debt, then the problem resolves itself into one of timing. We should note also that by decreasing the funding span

1. Cochran, op. cit., p. 28; Jour. Prov. Cong., I, 128, 133-34.

2. Cochran, op. cit., p. 44 and n. 5. New York County divided evenly.

to two years, the house increased the tax funds for each year to £22,500, whereas the original committee recommendation had advocated a £15,000 levy.

Having wet their feet, as it were, in the paper ocean, the congressmen were not loth to return for another dip. Congress voted two more emissions in January and August, 1776 which amounted to £255,000. These proved to be final, so that New York had mortgaged itself for £300,000 in all. Both of the last issues indicated the deterioration of the strength of the proponents of taxation. Although the January resolution laid down a three year funding plan, it made no reference to the tax quotas essential to carry it out. By August even the funding operation disappeared from the resolution and Congress drew up a substitute:

That the public faith of this State be pledged for the redemption of the said bills of credit, and that this Convention, or some future Legislature of this State, will make effectual provision for that purpose.¹

Fortunately for the prosecution of the war, New York could borrow from the Continental Congress. When the latter organ struck off Continental paper, it dispatched some £150,000 to the Provincial Congress, 1775-77. In addition to this source, the Congress borrowed from individuals to an undetermined amount.²

Whatever the reasons for Congress's hesitation to lay a tax, the creditor-debtor relationship and the fear of political opposition

1. Ibid., p. 38; Jour. Prov. Cong., I, 223, 316, 326, 330, 336, 338, 339, 540, 560, 571.

2. Treasurer's Accounts, 1775-78, NYHS; Jour. Prov. Cong., I, 116; Flick, Am. Rev., p. 114.

1

are not sufficient explanations. Jay long criticized the paper policy, prodding McDougall occasionally to seek a change. On 27 March 1776 Jay adverted to the political effects of taxation in these words:

There is much money in the Province, the Produce of the Country retains its Price & a moderate Tax would be borne without a Murmur.²

McDougall revealed something of the situation's complexity in his reply of April 16 to Jay:

I have long been of your opinion on the subject of taxing, but I confess there are weighty difficulties in the way. The great stagnation of commerce, and the removal of the inhabitants out of this city were important reasons which induced my assent to delay that measure. If we had taxed, where should the rich men of this capital who have taken their flight be taxed? And how is the poor freeholder of it, to pay his, when he can receive no [rent]? I was determined & delayed the tax for these difficulties as the country members seem bent on saddling us with one third of the colony expence.³

It is worthy of note that these reasons gave Jay pause and he confessed⁴ they had not occurred to him.

The colonial treasurer's position was an ambivalent one. When the Provincial Congress needed funds in May, 1775, it called upon Treasurer Abraham Lott to lend the required money on the personal guarantee

1. See Becker, op. cit., p. 217; Cochran, op. cit., p. 44.

2. Jay to McDougall, 23 December 1775, 27 March 1776, McDougall Papers, NYHS; Johnston, op. cit., I, 40.

3. Jay Papers, CUL.

4. Jay to McDougall, 27 April 1776, ibid. and McDougall Papers, NYHS; Johnston, op. cit., I, 57.

of the deputies. Although a royal official, Lott complied and this procedure obtained for a considerable length of time. Meanwhile, the First Congress appointed Peter Van Brugh Livingston as its treasurer in July, 1775. The office proved too burdensome for Livingston, an elderly man, and he chose a deputy, Gerard Bancker, whom the Congress approved. Henceforth, Bancker bore the major burden of the office and in recognition Congress changed his title in January, 1777 to Vice-¹ Treasurer.

When Lott presented a memorial to the legislature in March, 1776, he stimulated that body to action. The substance of his letter concerned the funding of the 1771 bills of credit of which one-tenth fell due in April. A committee recommended that the payment of the principal be suspended and that any sums paid in be loaned out again. Furthermore, the committee declared that Congress must "attend to the proper application of the public moneys now in the hands of the said Abraham Lott, Esquire." Lott evaded the directive but Congress did nothing. It is surprising that Governor Tryon did not instruct him to bring his papers out to the British warships in the harbor. In September, 1776 the Convention demanded an accounting and forbade Lott to act as treasurer. Whatever expectations the Convention may have entertained as to the funds in his possession, the final outcome dashed those hopes. Although the records demonstrated the existence of \$25,000,

1. Flick, Am. Rev., p. 108; Jour. Prov. Cong., I, 216, 774. In November, 1776 Bancker wanted to give up his subordinate position, but neither Livingston nor the Convention would listen to him. When Bancker repeated his intention on January 14, the Committee of Safety replied by making him Vice-Treasurer. Ibid., II, 316-17; Cal. Hist. Mss., I, 593.

Lott possessed only \$3,000 and the Convention labored in vain to obtain that sum. The treasurer had invested the large balance in the
¹
 Danish Islands.

The deepening rift between Whigs and Tories in the summer of 1775 posed one of the thorniest problems that ever confronted Congress, the disposition of the Tories. Congress did not formulate a general policy for several months, leaving most action in the hands of the local committees. When a serious incident occurred, such as the enlistment of recruits for the British Army, Congress heard the evidence, then voted on the verdict. Those adjudged guilty might be imprisoned
²
 locally or shipped off to Connecticut.

The activities of the Tories in Brookhaven early in August caused Congress to prepare its first overall measures against them. After much debate extending over three days, the deputies agreed upon several resolutions. The resolves defined sundry forms of opposition and actions as punishable by imprisonment, but placed their enforcement in the hands of the local committees. If the committees or militia apprehended any individuals in arms or enlisted in the British forces,
³
 they would hold the prisoners for disposition by Congress.

1. Jour. Prov. Cong., I, 347, 350; Flick, Am. Rev. pp. 108-10. Flick confuses these events with a committee accounting with Livingston and Bancker in February.

2. Becker, op. cit., p. 216; Flick, Am. Rev., p. 210; Jour. Prov. Cong., I, 89, 93, 100, 127, 129, 135.

3. Ibid., I, 105, 127, 129, 131-32; Becker, op. cit., pp. 223-24.

Since these first steps did nothing to quell the Tories in regions which they dominated, such as Queens, the Provincial Congress voted additional measures. The local Whigs lacked the numbers and force to take effective action and pleaded with Congress to intervene. By December 1775 the open defiance of the revolutionaries by Queens and Richmond Tories constrained the Second Congress to strike at them. Fearing bombardment by the British warships, the Provincial Congress instructed its delegates in Philadelphia to ask the Continental Congress for aid. The latter obliged, ordering Jersey troops to Queens to disarm the Tories and apprehend the ringleaders. About six hundred residents surrendered their weapons and nineteen their persons. Early in February the New Jersey Congress complied with a request from New York to perform a similar sweep on Staten Island.¹

The Second Congress (in the form of its Committee of Safety) prompted by a resolve of the Continental Congress, adopted an additional measure against the Tories. It instructed the counties to disarm the "disaffected," employing, if necessary, the militia.²

The Third Congress had scarcely organized in May, 1776, when Washington exerted pressure on it to take vigorous action against the Tories. The Commander-in-Chief took the congressmen into his confidence, revealing to them intelligence of a Tory plan to unite the disaffected on Long Island and adjacent Connecticut and to join the British. Congress spent most of May 19 and into the night of the twentieth discussing the evidence and remedies. It seems to have concluded its deliberations

1. Ibid., pp. 238, 244-45.

2. Ibid., p. 262; see above, pp. 106-08.

by referring the whole business to a committee headed by John Alsop.¹

When the committee reported May 21, Congress ordered the secretaries to transcribe a fair copy. After three days of intermittent but prolonged debates, the deputies approved the lengthy report which recommended that Congress cooperate with Washington to round up the most dangerous of the opposition and that the county committees apprehend not only all civil and military crown officials, but also all those suspected of hostility to the American cause.²

The following day, May 25, the congressmen charged a committee of Scott, Jay, Morris, Haring and Remsen to draw up enabling resolutions, but Congress did not approve the draft until June 5. The committee submitted its report on May 28 and Congress immediately commenced consideration of it. Other affairs intervened, preventing final disposition until a week later. The heart of the "laws" approved comprised those sections creating a committee to seize, try and punish Tories. The committee consisted of seven men: Gouverneur Morris, John Ten Broeck, Henry Remsen, John Haring, Thomas Tredwell, Lewis Graham and Joseph Hallett. Among the other resolutions, Congress conferred similar powers on the county committees and authorized the local committees to arrest and hold any suspects until the county committee met to dispose of the cases. The resolutions directed the congressional committee to arrest about a hundred of the leading Tories in the city, Richmond, Kings, Queens and Westchester.³

1. Nettels, Washington, p. 290; Jour. Prov. Cong., I, 450, 453.

2. Ibid., I, 456-57, 459-60, 461.

3. Ibid., I, 461, 464, 476-78.

After some delay the "secret committee" set about its labors on June 15 with a slightly altered cast, the most important changes being the addition of Jay and Philip Livingston. Over the next two weeks the "inquisitors" examined numerous suspects, heard witnesses, and disposed of cases. In arriving at decisions, the committee voted in accordance with the voting rules of Congress, not by individual. Most of those summoned, if convicted as no "Friend to the American¹ cause," secured their release on parole or posted bond.

Scarcely had the secret committee begun hearings when Washington imparted fresh intelligence to Congress which halved the committee's membership. On June 17 the legislators chose Jay, G. Morris, and Philip Livingston a "secret committee" to confer with the Commander-in-Chief relative to this information and "take such examinations... as they shall think proper." Thus began the unraveling of the celebrated Tory plot, a plot intended to unleash operations against Washington's army on the arrival of the British Army. Governor Tryon planned to have Tories strike at ammunition stores, sabotage cannon, and destroy Dykeman's Bridge across Kingsbridge Creek which linked Manhattan with Westchester and New England. Three days thereafter Congress granted this second secret committee power to apprehend and secure certain persons in "such manner as they may think most prudent." The trio worked closely with Washington in rounding up the ring, but whether they tried the prisoners, or entrusted that task to the first² secret committee (of which they were members) cannot be determined.

1. Flick, Am. Rev. p. 213.

2. Nettels, Washington, pp. 290-91; Jour. Prov. Cong., I, 497, 500.

The British arrival disrupted the work of the committee and prevented consideration by Congress of the committee's report. On June 28 Jay requested and obtained leave from Congress for the committee to continue sitting, since it had not finished its task. He presented a report of his board's activities with the supporting evidence, but the delegates deferred even receiving it "as the House is very much engaged in other necessary business." The house did not return to the business because Sir William Howe's appearance disrupted the proceedings. Before Congress closed its session, it gave Washington power to "take such measures for apprehending and securing" dangerous persons "as he shall think necessary."¹

When the Fourth Congress or Convention assembled on July 9, it merged the two "secret" committees. The Convention specifically repealed the broad powers to seize suspects Washington had received from its predecessor, resolving that "it would be unreasonable longer to burthen the General with matters for which this Congress ought to provide...." Having taken this precaution to safeguard civil authority, the deputies instructed their committee to proceed in a manner "most agreeable to the dictates of justice and humanity, and "most advancive of the public good, the oath which they have taken notwithstanding." Just how this committee functioned is not clear, since the Convention itself heard numerous cases and prescribed punishments. Late in August the Convention directed the county committees to exercise their discretion in releasing minor loyalists whom the Convention had

1. Cal. Hist. Mes., I, 341, 348; Jour. Prov. Cong., I, 509, 512.

arrested, but not to liberate any person confined for "treasonable
¹
 practices."

The deteriorating military situation and increased activity of the loyalists caused the Convention on September 19, 1776 to take a new look at its loyalist policy. During the subsequent debates the members hammered out more drastic resolutions, establishing a standing committee of seven with broad powers for "inquiring into, detecting and defeating all conspiracies." Jay, William Duer, Pierre Van Cortlandt, Leonard Gansevoort, Charles DeWitt, Zephaniah Platt and Nathaniel Sackett composed the committee. The committee had troops at its command, either militia or special ranger companies, its own intelligence network and express riders. During the four months of its existence this committee presided over perhaps 500 cases. Many prisoners incurred
²
 sentences of banishment to New Hampshire jails.

When Carleton in October, 1776 advanced down Lake Champlain toward Ticonderoga, the Committee of Safety established a new committee in response to Schuyler's appeal for reinforcements. The Committee of Safety heeded his call by detailing a special committee to repair to Albany to cooperate with Schuyler. The new committee possessed practically a blank check which included authority to call out the militia of the northern counties. However, this special committee devoted an important portion of its time and energy to the apprehension of loyalists. It is

1. Flick, Am. Rev., p. 218; Jour. Prov. Cong., I, 633, 634, 637-39.

2. Flick, Am. Rev., pp. 218-19; NYHS Coll., 57:3-5; Jour. Prov. Cong., I, 693.

highly unlikely that the labor of this committee of "arrangement" duplicated that of the committee to defeat conspiracies. The Committee of Safety's correspondence indicates that the other committee did not lack for business elsewhere. Where circumstances warranted it, the house resorted to special committees to supplement the work¹ of the existing committee on conspiracies.

Driven by the pressure of innumerable problems, the Convention devised every conceivable stratagem to maintain adequate attendance. On 11 February 1777 the Convention dissolved the committee on conspiracies and replaced it by a commission of three non-legislators who drew 12s. per diem for their service. The deputies picked three men from Dutchess to fill the new posts: Egbert Benson, chairman of the county committee, Colonel Jacobus Swartwout of the militia, and committeeman Melancton Smith. The commission seems to have inherited the rights of its predecessor, although the Journal does not specifically state that it did. When the Convention resolved on 7 March 1777 to offer political prisoners an act of grace and thereby clear the jails, it inundated the commission. The act's terms extended to all offenders except those who had taken up arms against the United States, those who had recruited for the British or had supplied them with provisions, and those who had conveyed intelligence to them. This meant that the commission interrogated not only those imprisoned in New York, but also those incarcerated in other states. The prisoners' discharge depended upon their taking a special oath of allegiance. Failure to comply

1. Ibid., I, 684, 693, 694-95, 700, 910-11; Cal. Hist. Mss., I, 525.

entailed banishment within the British lines or imprisonment as "open enemies." Although the Convention dissolved 13 May 1777, the succeeding Council of Safety continued the commission. Similarly, when the Council of Safety expired 10 September 1777, a Convention of members of the senate and assembly authorized the commission to proceed as
 1
 before.

Having instituted measures against the persons of Tories, Congress soon felt obliged to appropriate their property. The house embarked on a confiscation policy on 1 September 1775, when it voted seizure of the personal property of those who joined the British army or took up arms against America. The local committees assumed trusteeship of such personalty, but the people tended to interpret the resolution as authorizing confiscation. The Declaration of Independence spurred some of the committees to wholesale confiscations of personalty and in some localities the committeemen sold the property. Later the Convention instructed the committee on conspiracies to sequester the
 2
 effects of loyalists who broke their parole.

The military situation in Westchester helped to precipitate further confiscations. A Convention committee cooperating with the army in Westchester pleaded with the parent body to dispatch 600 to 700 militia reinforcements to hold the lower part of the county. William Duer, chairman, pointed out that if New York called in Connecticut troops, these would probably seize the property of loyalists who have fled or

1. Flick, Am. Rev., loc. cit.; Jour. Prov. Cong., I, 803, 807, 827, 1061.

2. Flick, Am. Rev., p. 220.

joined the enemy army. Two days afterward, 22 February 1777, the Committee of Safety ordered the public sale of Westchester loyalist personalty. The next month the Convention applied the Westchester action to the whole state. The resolutions created three commissioners in each county to dispose of the personalty of absentee loyalists by public sale, allotting to their families their apparel, furniture and three months supply of food. Income from the sales went to the state treasury "to be hereafter paid to the respective owners thereof, or otherwise disposed of at the discretion of the legislature...." Although the Convention marketed personalty, it did not deal with realty in the same fashion. All houses and estates seized with personalty remained in trust until further disposition by the legislature in 1779.¹

Since the distribution of powers between the Continental Congress and the states was not defined until the adoption of the Articles of Confederation, the Provincial Congress's interpretation of these relationships is difficult to ascertain. New York seems to have accepted without question Continental primacy in the direction of the war, but from time to time it challenged the Continent or its agents on specific issues.

Although the New York Congress depended in its relations with the Continental Congress upon delegates chosen from among its members, opposition to this method of determining representation cropped up in the spring of 1776. Sentiment for having the people elect the Continental deputies arose in New York City, Orange and Ulster Counties. In

1. Ibid., p. 221; Jour. Prov. Cong., I, 808, 811.

the city the mechanics sought to rouse popular support for direct election but with indifferent success. The inhabitants of Goshen district, Orange County, deprived their provincial representatives of the power to choose Continental delegates. A serious dispute occurred in Ulster on this question, but the county committee adhered to the current practice. Jay defended Congress's position in the matter, arguing that all the colonies choose their delegates to the Continental Congress in this fashion. Furthermore, since the people gave their deputies that specific power in the elections for the Third Congress in April, 1776, Jay did not comprehend how the exercise of this power would injure the people's "right of election."¹ After this incident, no further challenge developed.

The question of continental-state relations arose early in the First Provincial Congress. In May, 1775 Isaac Low, seconded by Gouverneur Morris, presented a resolution:

Resolved, As the opinion of this Congress, that implicit obedience ought to be paid to every recommendation of the Continental Congress, for the general regulation of the associated colonies; but that this Congress is competent to and ought freely to deliberate and determine on, all matters relative to the internal policies of this colony.

After much debate, the opposition, led by Scott, carried a motion to table. Only Richmond County voted against tabling. Whatever the delegates may have said about the propriety or substance of Low's proposal, they did not entertain any idea of subordinating the colony

1. Becker, *op. cit.*, pp. 256-57, 259; *Jour. Prov. Cong.*, I, 460, 467, 499, II, 199-200; Jay to McDougall, 11 April 1776, McDougall Papers, NYHS; *N. Y. J.*, 4 April 1776.

to the authority of the Continental Congress. May 24, the day after this discussion, the house approved a letter to the Connecticut government in which they promised "that in this and all other matters, we will pay the highest attention to every recommendation of the Grand Continental Congress...." This language hardly qualifies as unconditional acceptance of Continental supremacy.¹

Having blocked the attempted definition of spheres of interest, Scott counter-attacked on May 25 with a resolution "to fully approve of the proceedings of the [First Continental] Congress." This motion did not win approbation either, since the house tabled it without a formal division. However, a day later the members approved the General Association, signed it, and circularized the county committees to have every inhabitant sign it. One clause in the Association pledged the deputies to "adopt and endeavour to carry into execution whatever measures may be recommended by the Continental Congress or resolved upon by this Provincial Congress for the purpose of preserving our Constitution, and opposing the "execution of the several arbitrary and oppressive acts of the British Parliament...."²

Friction arose in January, 1776 when Washington ordered General Charles Lee to New York to fortify the port against a possible British attack. Fear that Lee might precipitate hostilities with the British men-of-war in the harbor, drove the Yorkers to protest the expedition.

1. Becker, op. cit., p. 212; Jour. Prov. Cong., I, 8, 11.

2. Becker, loc. cit.; Jour. Prov. Cong., I, 13, 15; Cal. Hist. Mss., I, 86.

Hearing of the New York reaction, the Continental Congress, under the prodding of the New York delegates, dispatched a committee to the city to investigate the expediency of the operation and to exert supervisory authority over it. The Committee of Safety assigned Scott and McDougall to wait upon the Continental committee and to bring back a report. The committee informed the two Yorkers that the General came to take measures and consult with the Continental members for the defense of the city and not to commence a battle. The Continental committee also requested supplies and barracks for the first contingent of the troops which would arrive that evening. In the course of the debate which the request provoked, Comfort Sands moved that the troops be halted until the Committee conferred with the Continental emissaries. Sands's motion lost by a vote of 4 to 3 with Scott voting in the negative and McDougall in the affirmative. Scott then advocated that the troops be admitted upon condition that the Committee of Safety control them until a conference of the Yorkers with the Continental committee and General Lee and until "further order to be taken thereon, with the consent of this Committee...or further direction of the Continental Congress."¹ This motion carried by 5-2 with McDougall shifting to support Scott.

The Committee of Safety achieved nothing by this last maneuver. The Continental committee rejected these conditions on two grounds. First, that its instructions from Congress precluded their acceptance and second, the assurances first given by it to Scott and McDougall

1. Becker, op. cit., pp. 246-47; Jour. Prov. Cong., I, 275-77. Becker attributes the situation to nationalism vs. sectionalism.

rendered the conditions superfluous. Furthermore, Colonel David Waterbury, commander of the Connecticut units en route to the city, who was there beforehand, practically defied the Committee of Safety. He refused to submit the troops to the Committee's command and insisted he would "march them into the barracks." In the face of this resistance the Yorkers asked the congressional committee for an immediate conference. Taking refuge in a technicality, the Committee of Safety argued that since General Lee would not accompany the first contingent and since the troops entered the city without any particular order of Congress, the Committee of Safety ought to have command of them. The congressmen silenced the Yorkers by producing their instructions from Congress which gave them authority over Lee's forces. The Committee of Safety yielded because they had no alternative. The issue lay not so much over the question of local command, since Stirling's succession to Lee's authority in March brought no protest from the Provincial Congress. Rather they apprehended that Lee's rashness might¹ induce him to attack the British ships.

Before quitting the scene, Lee stirred the wrath of the New Yorkers by ordering the imposition of test oaths on the Long Island Tories. He first hinted at the desirability of an oath on March 4, but the Provincial Congress did not reply. On March 5 Lee ordered his adjutant general, Isaac Sears, to offer a test oath to a list of Tories and to arrest those who refused to take it. On the seventh the General asked Congress for a reply to his proposal on the Tories, but

1. Ibid., I, 278-79.

the provincial body ignored the request. Sears carried out his orders, but the Provincial Congress made no official protest, perhaps because Lee handed over his command to Lord Stirling on March 8. On March 12, Daniel W. Kissam of the Great Neck Committee, Queens, presented himself before the house to complain of Sears's conduct. These proceedings, Kissam asserted, "tend to convert whigs to be tories." After hearing Kissam's account of these events, Congress entertained a motion to summon Sears before it to explain his authority for his undertaking. The Journal notes that the house expended a "considerable time" in debating the motion, but came to no decision. Although the deputies postponed the business to the next day, they did not revive the matter.¹

This seeming oversight in connection with the test oath may have derived from action in the Continental Congress. The New York delegates in Congress heard of the affair and on March 8 won approval of a resolution condemning the imposition of test oaths by military officers. Their letter to New York on the subject implied a rebuke to the province for not having protested to the Continental Congress, since the military had encroached upon the civil authority.²

A long-standing contest among New York, New Hampshire and Massachusetts over adjoining lands disturbed Continental-state relations in 1777. Some of the inhabitants of these counties (variously denominated the Grants, New Connecticut or Vermont) memorialized the Continental Congress to admit their representatives as delegates from an independent

1. Ibid., I, 336, 343, 354, 355, II, 148.

2. Ibid., I, 379.

state. The New York Convention, having intelligence of this maneuver, prepared in April, 1777 a forceful letter of instructions to their delegates in Philadelphia. If Congress should vote to seat the Vermonters over the opposition of the Yorkers, ran the letter, the Yorkers should protest in the state's name and "forthwith return to this state." The Convention added:

You are from time to time to oppose,...all such resolutions of Congress, as may impliedly or expressly infringe the rights or jurisdiction of this State.

Lastly, the Convention threatened to withhold approval of any plan for confederation unless the Continental Congress upheld it on the Vermont question. Perhaps the threat of withdrawal from Philadelphia had its effect, for in June Congress vindicated New York, refusing to recognize Vermont as a state.¹

The First Provincial Congress discussed Indian affairs early in its proceedings because Sir Guy Johnson, the Indian Superintendent, exerted his influence among the Indians to arouse hostility to the Whigs. After hearing disquieting reports from the Albany County Committee on Johnson's maneuvers, the congressmen in June, 1775 discussed the feasibility of suggesting that the Continental Congress establish an Indian superintendency. They outlined their idea to the Yorkers in Philadelphia, giving them discretionary power to introduce the matter in Congress. Ultimately, the Continental Congress appointed a number of Commissioners of Indian Affairs, three of whom came from New York. The Provincial Congress relied on its committee system to meet such Indian problems as

1. Ibid., I, 778-79, 820-21, 854-55, 869, 998-99; II, 418.

came before it, although it frequently had recourse to the services of the Albany County Committee to hold conferences with the Six Nations.¹

In 1777 the Committee of Safety moved tentatively to revise Indian policy. A complaint from some of the Six Nations in Tryon County alleging a land swindle by George Croghan of Pennsylvania impelled the Committee of Safety in February to touch briefly on the general subject of Indian relations. Besides enjoining Duane and Gouverneur Morris to investigate the complaint, the Committee ordered them to draw up a proposal for regulating Indian affairs. Duane and Morris did not report back to the Committee, nor did they make any presentation to the Convention which reconvened in March. When the Convention dissolved itself in May, 1777, it "resolved and ordered" that the two men report to the succeeding Council of Safety. The committee did work out recommendations, but the Council never formally received them. The suggestions would have deposited authority to regulate Indian affairs in the hands of special commissioners who would "superintend, manage and direct all Publick Business" of this kind.²

Although the Provincial Congress combined legislative and executive functions, it did not assume responsibility for the normal administration of justice. After the Declaration of Independence the Convention ordered all Whig judges to proceed as before, provided that "all processes and other their proceedings, be under the authority and

1. Ibid., I, 24, 30, 32-33, 39, 82, 95; II, 47-48, 56-59, 419.

2. Ibid., I, 801, 802-03, 930; Cal. Hist. Mss., II, 645.

in the name of the State of New-York." The Convention, however, did intervene on two occasions to appoint judges. In July, 1776 the Convention instituted a court of admiralty and offered the seat to Richard Morris. When he declined, the legislature commissioned Lewis Graham to fill the post. The second essay into judicial affairs originated in military necessity. Recruiting for the Continental regiments in Westchester centered around Peekskill, a supply base. Duer complained that the lack of a justice of the peace in the vicinity to administer an oath hampered enlistments. The Convention responded by appointing William Paulding "with the like powers, privileges and authority now or heretofore enjoyed and exercised by a justice of the peace in this State."¹

The committee system was the mainstay of governmental procedure. The house did not grant its committees autonomy, but maintained a close check on their operations. No doubt duplication of effort did occur. Possibly a more serious handicap for the government lay in the shortage of manpower, since most members divided their time and energies among a number of committees. Notwithstanding its inefficiencies and mistakes, government by committee did see the state through a most critical period and did prevent a breakdown of the war effort. Equally important, the Convention wrote the first state constitution in the midst of great difficulties.

1. Jour. Prov. Cong., I, 527, 550, 554, 556, 566, 765.

CHAPTER VI

THE VIRTUES OF MAKING HASTE SLOWLY, OR FRAMING THE CONSTITUTION

When the Fourth Provincial Congress opened its proceedings on July 9, the primary business of the day was not a constitution, but the Declaration of Independence. Congress promptly adopted a set of resolutions heartily endorsing the Declaration which made New York the thirteenth colony to vote approval. The next day the legislators converted themselves from an illegal, revolutionary body into the Convention of Representatives of the State of New York; the Fourth Provincial Congress had but a fleeting life.

If the people expected the Convention to plunge into the task of constructing new political foundations, they were disappointed. When the matter was first discussed on July 10, the house agreed to¹ defer consideration until July 16. On the appointed day an influential group blocked debate by pleading that "the present dangerous situation...demands the unremitting attention of every member...." This sentiment prevailed and the members consented to set aside debate² until August 1. It is quite likely that the difference over this

1. Jay described the fluidity of the situation: "We have a government, you know, to form; and God only knows what it will resemble. Our politicians, like some guests at a feast, are perplexed and undetermined which dish to prefer." Jay to Rutledge, 6 July 1776, quoted in William Jay, Life of John Jay, I, 62; Force, op. cit., 5th Ser., I, 40.

2. Jour. Prov. Cong., I, 519, 527.

point concealed more profound disagreement, indicating the marshalling of the hostile elements for the grand contest over the Constitution.

A Connecticut observer put the delay on this basis:

the Toryfied in the House prevailed to have it postponed, the Whigs say they were willing to have it so, as they []t that by & by they shall have better grounds to build their new Constitution upon.¹

On August 1 Morris opened the business with a motion to select a committee to draft a constitution. Duer seconded it and the proposition passed unanimously. But here the unanimity quickly dissolved as Adgate of Albany proposed that the house direct the committee to draw up first a bill of rights "as the foundation of such form of government." Morris sought to kill the measure by moving the previous question (i.e., the nominations to the committee), but the house voted him down. An amendment by Duer to direct the committee to report both drafts simultaneously carried by a "great majority" and,² thus amended, Adgate's proposal received unanimous approval.

Turning to the selection of the committee's personnel, the Convention embroiled itself in controversy over General John Morin Scott's right to hold a seat in the house. The dispute had sprung up the previous day after some remarks by Scott on a matter of Westchester patronage.³ The patronage involved command of the drafted

1. Jedidiah Huntington to Jabez Huntington, 20 July 1776, Connecticut Historical Society Collections, XX, 312 (hereafter cited as CHS Coll.).

2. Jour. Prov. Cong., I, 552.

3. The rush for political plums in the power of the Provincial Congress had begun early in the conflict. An onlooker distastefully commented:

militia who had mobilized for the defense of New York City. The Convention, by Morris's advice, by-passed the senior colonel of the Westchester militia, Joseph Drake, who normally would have received the post, in favor of a junior colonel, Thomas Thomas. The latter's family, locally prominent, had allied itself with the Morrises. Drake's protest and resignation might have gone unheeded, but the officers and men of his regiment refused to serve under Thomas which necessitated the Convention's intervention. Scott, as commander of this detachment of 3,000 militia, opposed Thomas's selection "lest it might injure the service by placing officers in service out of their proper tour of duty or rank." This comment gave umbrage to Morris¹ who resented this interference in his own bailiwick.

Counter-attacking from an unexpected quarter, Morris questioned Scott's right to his seat in the Convention. Morris demanded that Scott not be "permitted to speak or interfere in the debates of this Convention." He buttressed his challenge with a congressional resolution of June 15 which stated that no officer in the pay of the Continental Congress or of the colony ought to have a seat in the Provincial Congress. In rebuttal Scott "claimed his seat on behalf of his con-

"In the disposal of offices, particularly in the military department the most shameful partiality prevails, all or most of the inferior commissioned officers being selected from the creatures and absolute dependents of the governing party. Indeed the conduct of our gentry & principal people has rendered this vile arrangement almost inevitable." Dr. John Jones to Duane, 13 July 1775, "The Duane Letters," Southern History Association, Publications, VII, 249.

1. Dawson, op. cit., p. 30; Jour. Prov. Cong., I, 551; Force, op. cit., 5th Ser., I, 790, 1428, 1431-32, 1461, 1475.

stituents." Leaving aside these broad grounds of defense, Scott might have countered with some pertinent observations on generals in the Convention. When the Convention officially accepted the New York County delegation's credentials on July 10, Morris offered no objection to General Scott. The latter did not take his seat until July 31, but Morris did not object to Scott until after the latter had participated in the Westchester imbroglio. Furthermore, two other generals had won election to the house without undergoing any scrutiny of their rights. In fact the Convention had chosen General Nathaniel Woodhull, commander of the Suffolk militia, as its president. Secondly, Westchester had returned to the house General Lewis Morris, commander of that county's militia and Gouverneur's own kinsman. It is possible that when he challenged Scott on July 31, Gouverneur Morris was thinking of the next day's debate on a constitution.¹

The Convention never resolved the issue raised by Morris. After a lengthy exchange of views the members voted to examine the merits of the challenge August 6. Not until the seventh did the Convention revert to the subject, but then it postponed it again to August 14. Despite the fixed day, the Convention did not discuss the matter again. Perhaps informal discussion convinced Morris that he could not muster a majority for his contention. In the interim the City Committee sent the Convention an irate letter which condemned this attempt to deprive the people of their right "to say who shall represent them" in Convention. Pleading the "forlorn and deserted" condition

1. Jour. Prov. Cong., I, 551.

of the city as the reason for not having collected signatures to protest petitions, it asked that Morris's motion be erased and "buried¹ in eternal oblivion."

The Convention did select its constitutional committee on August 1 and did place Scott on it. Although Scott did not attend that day, Morris must have expected that his own constitutional views would differ basically from those of Scott. Consequently, he opposed Scott's nomination to the constitutional committee on the ground that the Convention had not yet determined his status. When the polling on Scott's nomination ended, the general narrowly prevailed through the support of the New York, Albany, Ulster and Tryon delegations.² In addition to Scott the committee comprised Jay, G. Morris, R.R. Livingston, Duer, John Sless Hobart, Abraham Yates, Jr., Robert Yates, Henry Wisner, William Smith (of Suffolk), John Proome, Samuel Townsend, and Charles DeWitt. The Convention ordered the committee to bring in a report August 26.

Since three of the committee (Jay, Livingston and R. Yates) were serving on a secret committee to obstruct the Hudson to the British, the Convention sent a letter which informed them of their additional duties and directed them "to meet upon this important business as early as possible."³ Although Livingston hurried to the Convention in re-

1. Ibid., I, 551. 557.

2. The vote was 21-20. Westchester, Dutchess, Cumberland, Suffolk, Gloucester and Queens supported Morris. Presumably Kings, Orange and Charlotte lacked quorums and could not vote. Ibid., I, 552.

3. The Convention had chosen Jay, Livingston, R. Yates, Christopher Tappen, Gilbert Livingston and William Paulding to be a committee for

sponse to this news, so far as is known, no committee meetings occurred.

Livingston's presence had some connection with the desire of certain members to have the Convention immediately elect a governor. Neither the precise details nor the persons involved are ascertainable,¹ but Livingston's agency in the business is definite. He tendered the nomination, if not the office, to Philip Livingston then in Philadelphia. Declaring his "unfitness" for the office, the latter advised the Convention not to select him. Nevertheless, Livingston added, if the Convention should pick him, he would not refuse the post. If this statement seems like the credo of the modern politician, it is an unhappy coincidence. His explanation has an honest ring to it. He feared a refusal might "be construed by some as [a] desert[ion] of the righteous causes...at a most dangerous crisis....At so critical a moment it might have a bad effect to have it even supposed that any one who has had an early part to act in this contest shd. not remain² ready to step forward when called upon by the Public."

It would appear that word of either these negotiations or intentions reached the ears of William Smith. Furthermore, Smith harbored

that purpose in July. Ibid., I, 526-27, 555.

John McKesson urged George Clinton to be present August 26 at all cost. Clinton Papers, I, 297.

1. Given the importance of the matter, it seems unlikely that R.R. Livingston would have acted without the foreknowledge of Morris and Jay.

2. Philip Livingston to R.R. Livingston, 15 August 1776, Miscellaneous Mss: Philip Livingston, NYSL.

the suspicion that a visitor, Peter R. Livingston, had come to offer him the candidacy:

I suspect that Mr. L. came to sound me on the Design of tendring the Governor's Place to me & that he was silent upon discovering by my conversation, that I was opposed to the Disunion of the Empire.¹

For whatever reasons, the plan, being stillborn, never reached the Convention floor.

The constitutional committee did not meet during the month of August, probably due to the absence of Jay, Livingston and Yates who were exerting themselves on the secret committee. Livingston, however, did spend a week early in August in attendance at the Convention and expended some energy in persuading his colleagues that the work of the secret committee was more important than that of the governmental committee. In fact this was the ground advanced to justify their non-attendance and the Convention acquiesced in it.²

1. William Smith, Memoirs, V, 11, 17 August 1776, NYPL. It was perhaps with this interview fresh in his mind that Smith that same day scrawled an abrupt, incomplete note to Schuyler: "I have ten Thousand Things to say to you, but must suppress at present, except that as a great Landholder, I think your Interest, at this tremendous moment of forming a new Government, calls you rather to the Cabinet than the Field...." 17 August 1776, Schuyler Papers, NYPL.

2. With Livingston present, the Convention drafted this letter to Jay and Yates: "As you are both of the committee for the framing a new government, the Convention think it highly proper that you should attend upon that business immediately, unless your presence is absolutely necessary in the secret committee [underscoring mine]...." The following day the Convention formally resolved that it would be "improper" to recall Jay and Yates and gave Livingston leave to join them. Notwithstanding the official explanation, private correspondence indicates that other motives were responsible. Livingston informed Clinton: "I wrote likewise to you on our political state & the necessity we are under of having your assistance, of which you would be fully convinced if you could attend to the manoevers of some persons for one week. Let me hear

The Convention stressed the secret committee's priority over the constitutional committee and the necessity of attendance by Jay, Livingston and Yates to ensure a quorum on the secret committee, but the explanation lacks conviction. Three months later when Washington was retreating in New Jersey, the secret committee received an important letter and survey from General George Clinton relative to blocking the Hudson. This was the committee's reaction:

Mr. Wisner put the survey in his pocket, Mr. Gil Livingston took the letter with him immediately on a visit to his wife & is not returned. There the obstruction slept, till this afternoon [i.e., November 26, three days after].¹

Although the secret committee flatly stated that without a quorum "nothing further can be done," its letters belie it. On three occasions in July, August, and September it did not have quorums, but that did not impede its labors.² The conclusion seems inescapable that a powerful group, which included the Livingstons, Morris, Jay and Duer,

from you on these subjects as soon as possible." Jour. Prov. Cong., I, 568; Livingston to Clinton, 18 August 1776, Clinton Papers, I, 312-13.

1. Clinton to Convention, 23 [?] November, McKesson to Clinton, 26 November 1776, ibid., I, 430-31, 432-33. In view of the urgency explicitly expressed by Clinton, Gilbert Livingston's action was odd. Yet this is the same Livingston who complained to the Convention in an oft-quoted letter: "notwithstanding the sense of the House appeared to be at the time we left it, first to endeavor to secure a State to govern, before we established a form to govern it by; yet that a day is fixed to take this important business when a part of its body is absent by the command of the House." Jour. Prov. Cong., II, 280.

2. Secret Committee to Convention, 13 August 1776, Tappen and G. Livingston to Convention, 26 August 1776, G. Livingston to Convention, 14 September 1776, ibid., I, 575-76, II, 219, 293; R. Yates to Paulding, 22 July 1776, Cal. Hist. Mss., I, 426.

were striving to delay the drafting of the constitution.

The governmental committee successfully evaded several deadlines. When the day for the committee's report, August 27, arrived, the Convention voted it a reprieve until September 4. Distracted by American military losses at the end of August, the Convention adjourned and journeyed up the Hudson to Fishkill. For the second time the deadline lapsed and not until September 14 did the subject arise in the house. Then a complaisant Convention ordered its committee to report "with all convenient speed."¹

The representatives' failure to produce even a draft two months after the Declaration of Independence gave rise to uneasiness in certain circles. In a debate in the Albany County Committee Jeremiah Van Rensselaer led the way in criticising the delay. "The public are impatient in the highest degree," he said, and contrary to earlier promises, some months have elapsed without visible progress. His conclusion depicted an alarming situation:

Suspensions are daily increasing, the usual harmony is in a great measure rent in pieces, their [i.e., the people's] faith in the Representatives tottering.²

Van Rensselaer moved that the county committee inform their deputies that any further procrastination "will be attended with alarming Circum-

1. Jour. Prov. Cong., I, 594, 625. The Convention stood adjourned for much of this period, its power being in the hands of a committee of safety.

2. 20 September 1776, Min. Albany Com., I, 557-58. Van Rensselaer's motion to appoint a committee to draft formal resolutions carried, the committee consisting of himself, Joseph Young, George Palmer, Leonard Gansevoort and John Tayler. The minutes, however, do not indicate that the committee ever reported.

stances." Since county deputies Leonard Gansevoort and John Tayler attended this meeting of the county committee, there can be little doubt that these rumblings of impatience reached the ears of the Convention.

The delay in drafting the constitution continued into October. Perhaps coincidentally the day Gansevoort returned to his Convention duties, September 28, that body directed its committee to report a draft "on or before" October 12 and ordered it to "sit every afternoon¹ till they shall be ready to report." Although the conservatives had² suffered a setback, they did not abandon the field, and Wisner complained a week after: "the formation of government goes on very slow indeed; we have done Little or nothing about it."³ Some time after this the committee did commence its business, although, insofar as the Journal records, the Convention did not adhere to its resolution of September 28. So rapidly did the committee's labors proceed that by October 18 Secretary John McKesson proudly declared:

The plan of government and justice (a child of Heaven) is so far come to maturity that I had the honor yesterday to make a copy of it for some other members of the committee on government, and has not yet been further exposed to view.⁴

1. Jour. Prov. Cong., I, 649, 651. The Journal records no formal division. Convention added Duane to the committee and reduced the quorum to five, which made it easier to have meetings.

It is instructive to note that the members deemed two weeks sufficient time for the committee to hammer out a draft.

2. R.R. Livingston indicated the defeat to Schuyler: "The Convention have determined to take up the matter of government peremptorily on the 12th inst. You promised to write to me on that subject, let me hear from you as soon as possible [Livingston's underscoring]." Livingston to Schuyler, 2 October 1776, Schuyler Papers, NYPL.

3. Wisner to Clinton, 4 October 1776, Clinton Papers, I, 368.

4. McKesson to Clinton, ibid., I, 384. Other deputies informally dis-

Since McKesson seems to have transcribed a preliminary draft which contained incomplete or unsatisfactory sections, the drafting committee returned to its labors in November. Fragments of the committee's meetings, dated November 5 and 6, reveal the members were debating problems relating to the election of senators and the governor. A conservative proviso for the indirect election of the senators prevailed by a 4-2 vote, but there was unanimous agreement to have the governor elected by the freeholders casting secret ballots.¹ The committee's rate of progress encouraged the Committee of Safety to adopt a resolution November 12 which notified the county committees that the Convention was at work on the constitution and bade them to ensure their county's prompt attendance.²

At this juncture constitutional principles became entangled in political maneuvering. The next day, November 13, a move to postpone execution of the resolution provoked lengthy exchanges, but this proposal did not owe its inception to the desires of the more conservative delegates. On the contrary, it was the adherents of Scott and Clinton

cussed the committee's efforts. William Smith, *Memoirs*, V, 18 October 1776, Smith Papers, NYPL.

1. Voting for the measure were Livingston, Scott, Duane and Smith; opposed were R. Yates and Wisner. *Cal. Hist. Mss.*, I, 552, 553.

2. *Jour. Prov. Cong.*, I, 710. Duane indicated that most of the work had been completed, but that one of the remaining major problems was the constitution of a court of appeals in error. Smith, *Memoirs*, V, 6 November 1776, Smith Papers, NYPL. See also Ebenezer Hazard to Pierre Van Cortlandt, 6 November 1776, Force, *op. cit.*, 5th Ser., III, 548.

The Committee of Safety governed until December 4 but under a stipulation by the Convention could not debate the constitution. *Jour. Prov. Cong.*, I, 677.

who argued for a stay of the proceedings. Since both men were with their army commands, they could not participate in this vital business. Their opponents countered by insisting that those officers had chosen voluntarily to take active command, and that they must have expected that the Convention would write the constitution without their participation. If necessary, the opposition argued, the Convention might request General Israel Putnam to give them leave when the draft was in the final stage. The Livingston-Duane motives paralleled those of the Scott-Clinton adherents. The former disclosed that the Dutchess County members (among them Livingston) would stand for re-election in December and might not win, especially since the county's freeholders were in the army "fighting the battles of the Convention" and could not vote. The exclusion of the Dutchess men, after they had been "steady" and "done great service to the public," would be an injustice. "Justice to the freeholders" and those "heroes of the county" in arms demanded that the Convention brook no delay in forming a government. The Livingston-Duane leadership triumphed and copies of the
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resolution went out to the counties.

1. The Journal does not record any of this dispute. McKesson to Clinton, 15 November 1776, Clinton Papers, I, 424-26. The Convention did not meet until December 5 and then only for the day. The Committee of Safety governed with one exception until March 6.

The matter of the Dutchess elections is obscure. No evidence of a December election can be found. It is possible that the county committee extended the life of the delegation.

According to McKesson at least one member opposed delay because "people had not Time to think or Criticize; they would greedily accept such form of Governm't as might be proposed. That in winter & more Leisure many more difficulties & of course delays might arise." Ibid.

In the ensuing weeks the constitutional committee alternated between industrious labor and inaction. At times of inactivity the Committee of Safety had to prod the committee's members once again.¹ Schuyler expressed his apprehension of the evil that would result from further procrastination by the committee. It will be more difficult "to bring the unprincipled and licentious to a proper sense of their duty," he warned.² While the general was writing this warning, the committee resumed functioning. Shortly thereafter, Chairman Abraham Yates, Jr. gave notice that the committee would submit the long awaited draft to the Convention on December 20.³ There followed two postponements in rapid succession on December 20 and 21, and two days later⁴ the chairman obtained permission to leave the Convention. Although both Yates and Duane unequivocally stated that the committee had completed the draft, it did not report the draft to the Convention.⁵

1. R.R. Livingston to E. Rutledge, 13 November 1776, Bancroft Transcripts; Livingston Papers, NYPL; Gansevcoort to Schuyler, 17 November 1776, Schuyler Papers, NYPL; Jour. Prov. Cong., I, 722.

2. Schuyler to R. Yates, 6 December 1776, Force, op. cit., 5th Ser., III, 1101.

3. He desired McKesson to transcribe the draft. Jour. Prov. Cong., I, 737, 741, 749; Smith, Memoirs, V, 16 December 1776, NYPL.

4. Charles Z. Lincoln, The Constitutional History of New York, I, 494 (hereafter cited as Const. Hist.).

5. Robert Yates to Duane, 25 December 1776, Force, op. cit., 5th Ser., III, 1421; Smith, Memoirs, V, 27 December 1776, NYPL. The curious silence suggests further disagreement within the committee. Indirect support for this idea comes from the further revisions which were made in the draft after December. It would seem that the introductory section on the state's boundaries was one element in this situation. The sharp language in this paragraph was aimed probably at New Hampshire with whom New York had been entangled in a protracted contest for control of the Vermont lands. The territorial description was worked out in February. Lincoln, Const. Hist., I, 501.

The committee remained silent into February, a silence in which the Committee of Safety seemingly concurred. The Committee of Safety in early February detailed Duane and Robert Yates to collect "sundry maps and materials" to enable the drafting committee to¹ "describe the boundaries" of the state. On February 11 in a one-day session the Convention stated its intention of commencing consideration of the constitution on February 19 and voted to inform the county committees of its plan. Explaining this decision, Duane said that unless the government acted, some of the delegates whose terms expired in May would have to face their constituents empty-handed.² Notwithstanding its intent, the Convention did not assemble February 19 and the matter lapsed.

The end of the committee's work, however, was in sight. The members seem to have completed even the determination of the state's boundaries late in February. Copies of the draft constitution began to circulate outside the confines of the committee, some Convention delegates displaying it to friends.³ As a matter of fact, the obstructionists could not deny much longer the pressure for action. When the Convention resumed sitting March 6, the house accepted without a division Gansevoort's motion ordering the constitutional committee

1. Jour. Prov. Cong., I, 795.

2. Ibid., I, 782, 802, 803; Smith, Memoirs, V, 15 February 1777, NYPL. The notification to the counties was intended to procure a Convention quorum, since the Committee of Safety could not debate the constitution.

3. John H. to R.R. Livingston, 28 February 1777. R.R. Livingston Collection, NYHS.

to bring in its report on March 12. Thus on March 12 the long awaited¹ draft made its debut.

It will be useful to pause here to ascertain the stages through which the draft progressed. The committee's labors extended in uneven fashion over the months from October to March, but the members concentrated most of this effort in the first three months.² The committee produced a first draft in two weeks, but then took two months to revise and expand it. It should have presented this revised copy to the Convention in December. Although the constitution would go through four more revisions before reaching the house floor, none of these would drastically alter the December draft.³ Only two members of the committee, Hobart and Townsend, did not participate in its work during these three months. Of the remainder, the Yateses, Smith, Duane, Livingston, Wisner, Jay, Duer, DeWitt were present most frequently, while Scott, Morris and Broome attended least.⁴

Historians, hitherto, have given Jay principal credit for in-

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1. Jour. Prov. Cong., I, 821, 823, 826, 833.
 2. The Committee does not seem to have functioned at all in January but spent most of February and two weeks in March on revisions.
 3. See below pp. 212-16.
 4. Since the constitutional committee sat as part of the Committee of Safety or of the Convention, the attendance recorded in the Journal provides a clue to the committee's operation. However, the secretary did not always record latecomers as present and some committee members did not always check in with the Committee of Safety before joining their committee. The Journal consequently is not an accurate guide, but it does yield the minimum attendance of the committee members. The statement on attendance, therefore, is a minimum estimate based on the Journal. Ibid., I, 661-750.

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diting the constitution, believing that the Convention produced only one copy. Lincoln, however, discovered two drafts and addenda in

2
the State Library which he reprinted, and thereby rendered students an invaluable service. Accepting the verdict on Jay, he concluded

that these documents were working copies of the Convention's deliberations since one of them, draft B, seemed to be in McKesson's hand and to be a revised copy of draft A. 3

4
Fortunately, a third fragment of eighteen pages has survived among the Yates Papers, making possible a more precise identification of each. A careful collation of the

three drafts and the debates in the Journal reveals that Lincoln's 5
copies were not working copies, but were in fact committee drafts.

1. The source for Jay's role has been the biography by William Jay, I, 68, which was written while the father still lived. Pellow, op. cit., p. 68; Monaghan, op. cit., p. 94; Sparks, Morris, I, 120; Howard Swiggett, The Extraordinary Mr. Morris, p. 32; Spaulding, op. cit., p. 87; Flick, Hist. N.Y., IV, 156; Flick, Am. Rev., pp. 83, 85; DeAlva S. Alexander, A Political History of the State of New York, I, 14; Lincoln, Const. Hist., I, 496; Thomas C. Cochran, New York in the Confederation, p. 14; Wertentaker, op. cit., p. 123; Allan Nevins, The American States During and After the Revolution, p. 159.

2. The capitol fire of 1911 destroyed the papers. Lincoln, Const. Hist., I, 501ff.

3. Ibid., I, 498-99.

4. Evarts B. Greene and Richard B. Morris, A Guide to the Principal Sources for Early American History in the City of New York, p. 110 (1st ed.); Flick, Hist. N.Y., I, 157; Minutes of the Convention which formed the Constitution of the State of New York, n.d., Abraham Yates, Jr. Papers, NYPL (hereafter cited as Min. of Conv.). The first ten pages of the latter ms. are missing as are those numbered beyond 29.

5. Since the debates proceeded clause by clause, it is possible to check the changes proposed and adopted against the drafts. For example, the house adopted the first paragraph without change. The final text, however, does not agree with the drafts. The latter had a section on the

An important clue for establishing the precedence of the various drafts is the preliminary section which delimits the territory of the state. Since the committee did not elaborate this proviso until February, the territorial section must have been one of the addenda to draft A in Duane's hand which grew out of the revision in early February of the December copy.¹ Therefore, draft A was probably the committee's December version.² Draft B is not the corrected version of

territorial limits of the state which does not appear in the former. The draft under consideration could not have contained this section, otherwise the Journal would have noted its deletion. The same thing is practically true about paragraph two. The word differences between Lincoln's drafts and the final text can be explained only by the conclusion that the former were not under debate. An important illustration can be found in paragraph five. The changes proposed by Morris cannot be fitted into Lincoln's copies. The subject of this fifth paragraph was voting by ballot and in the drafts consisted of a long section of almost five pages. Morris's alterations would have eliminated voting by ballot in favor of the existing voice vote. As given in the Journal he moved to strike out "by ballot" and substitute "according to," and to strike "shall continue to have their full effect." A comparison with the pertinent portion in Lincoln, I, 507-08, will make apparent that Morris's substitutions do not pertain to the Lincoln drafts. "And this Convention doth further ordain that all Elections for representatives in General Assembly shall be made by ballot in every county out of the Freeholders personally residing in each respective county. That the laws in force in the colony of New York for regulating elections shall continue to have their full effect where they shall not be repugnant to the Constitution hereby established and until they shall be altered or repealed by a future legislature." Morris desired to delete the underscored words above. Furthermore, these changes would not have deleted ballot voting since the following sections set out in detail the method to be adopted in balloting. Therefore, in order to complete the change, Morris would have had to move to strike out everything after the last line quoted above, but he did not. Jour. Prov. Cong., I, 834, 836. For other differences compare ibid., I, 836, 843, 867, 869, 873, 886 (paragraphs 6, 8, 13, 15, 22) with Lincoln, Const. Hist., I, 514, 515, 523, 524, 531.

1. Jour. Prov. Cong., I, 795.

2. Lincoln, Const. Hist., I, 501 does not specify to which draft this quoted section pertains. Lincoln followed an earlier observer in attributing the addenda to Duane. Ibid., I, 498-99.

A, but rather of the fragment in the Yates Papers. The latter work, which we may denote draft C for convenience, incorporated the changes in A and the addenda plus other minor variations. In effect then, C was the third revision and the committee finished it in February. Still not satisfied with their handiwork, the committee revised C, in some instances returning to the terminology of A. This was B and it¹ reached completion by the end of February.

Although the committee had finished revision B, it chose to refine further the draft. Up to this point it seems clear that the constitution was the product of the joint labors of the committee, but it is also clear that the committee did not report the B copy to the house for debate. The committee submitted to the Convention a fifth copy which was very likely Jay's handiwork. Substantiation for the tradition comes from Chancellor Livingston and a pseudonymous writer who consulted the Convention manuscripts then in the possession of John McKesson's nephew. This unknown author, "Schuyler," stated that² the draft of the constitution among these papers was in Jay's hand.

1. John H. Livingston obtained his copy from Albany delegate Abraham Ten Broeck on February 27 or 28. John H. to R.R. Livingston, 28 February 1777, R.R. Livingston Collection, NYHS.

2. Lincoln, Const. Hist., I, 498-99. This article by "Schuyler" appeared in the New York Columbian, June 16, 19, 1821 and is reprinted in part in Nathaniel H. Carter and William L. Stone, reporters, Reports of the Proceedings and Debates of the Convention of 1821, Assembled for the Purpose of Amending the Constitution of the State of New York, p. 692.

The Chancellor attributed a version to Jay in uncomplimentary fashion amidst the scurrilous gubernatorial campaign of 1792. In an anonymous piece addressed "To --- M---, Esq., Representative of ---- County" Livingston referred to "the constitution as first reported by Mr. Jay" as being in McKesson's possession. A later piece signed "Aristides"

It is possible that the committee assigned to Jay the task of polishing the draft, a task which he accomplished in the first twelve days of March.¹ Jay seems principally to have contributed clarity and economy of language, for McKesson declared the day after the report that it

omitted the method which proposed for electing by Ballot & sundry other matters by which the report is much shorter than when it was last copied.²

A reconstruction of Jay's draft from the Journal furnishes only a general skeleton of his labor, but it does reveal that he adhered closely to draft B, retaining the same topical order. He eliminated completely two sections, that describing the territorial boundaries and that prescribing oaths of office. Undoubtedly the most important alteration was the curtailment of the section on balloting for assemblymen which set forth in detail the requisite procedure. Jay retained that portion enunciating the general principle of voting by

challenged Jay to name that proviso of his draft which would uphold his claim to eminence as a statesman. Internal evidence suggests "Aristides" is the Chancellor. "To --- M---, Esq.," N.Y.J. Extraordinary, 31 March 1792; draft dated 7 March 1792 in R.R. Livingston Collection, NYHS. "To Timothy Tickler, Esq., C--- J----- of the U---- S-----" by "Aristides," N.Y.J., 4 April 1792.

1. Morris moved in Committee of Safety on March 1 to direct the drafting committee to meet the following day, but the Committee of Safety rejected the motion. On March 4, however, the Committee did order the constitutional committee to sit. It is likely that on this occasion the latter group discussed Jay's draft. On March 6 the newly assembled Convention set March 12 for the constitutional report. Jour. Prov. Cong., I, 821, 823, 826.

2. McKesson to Clinton, 13 March 1777, Clinton Papers, I, 657-58.

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ballot, deleting the several pages of minutiae. Other than these instances, there are no substantial differences in content between the two drafts.²

Although the Convention on August 1, 1776 had resolved unanimously to direct its committee to prepare simultaneously a constitution and a bill of rights, there is no evidence to indicate that the committee prepared the latter document.³ Furthermore, no one formally challenged the committee for contravening its explicit instructions. The house could not construe anything in the draft as a bill of rights, although separate paragraphs guaranteed voting rights, religious freedom and trial by jury where currently practised.⁴ The

1. Taking into consideration the changes proposed on the Convention floor and the phraseology of draft B, this balloting paragraph may have resembled the following reconstruction: "That all elections for representatives in General Assembly shall be made out of the freeholders personally residing in each respective county by ballot; the laws in force in the colony of New York for regulating elections shall continue to have their full effect where they shall not be repugnant to the Constitution hereby established and until they shall be altered or repealed by a future legislature." Lincoln, Const. Hist., I, 507-08; Jour. Prov. Cong., I, 836.

2. It is possible that Jay's proposed amendments on the floor were the consequence of their rejection in committee. See Alexander, op. cit., I, 14 for a different explanation.

3. Robert Yates, writing in 1788 under the pseudonym "Sydney," threw some light on the fate of the bill of rights. Those who favored the bill based themselves on English precedents, the Petition of Right, 1628, and the Bill of Rights, 1689. Those who opposed denied the analogy, comparing New York to a "state of nature" without any constitution. Therefore, any new constitution would operate as a bill of rights. Moved by these considerations and the provisions for frequent elections and impeachment, the Convention dropped the idea. N.Y.J., 13 June 1788; Paul L. Ford, Essays on the Constitution of the United States, Published During Its Discussion by the People 1787-88, pp. 297-314 (hereafter cited as Essays).

4. Lincoln, Const. Hist., I, 522, 541, 547. Although the old charter

debates afforded full opportunity for amendments and changes, but no one introduced anything resembling a rights bill. Gilbert Livingston moved and the Convention adopted a limited guarantee which preserved to the individual all rights and privileges granted by the constitution, unless removed by the "law of the land and the judgment of his peers."¹ The failure of the more radical delegates to criticize the omission of these vital principles remains unexplained, even though they did strive to democratize other sections of the draft.

Historians frequently have ascribed the eight months' delay in producing a constitution to three factors: the proximity of the British army, the critical military situation which absorbed the energy of the delegates, and the long absences of more radical members who were fighting the war rather than attending the Convention.² No doubt on specific occasions any one or combination of these elements caused a postponement, but more than a century ago Sparks put forward a different explanation:

There was a party, who thought this movement for a constitution premature, that it would be safer to wait for a period of more tranquillity, and a fairer prospect of calm reflection and deliberation among the members, and when the people likewise would be in a better condition to understand and receive the results of their labors.³

of 1683 had granted the right to indictment by grand jury, the revolutionaries did not adopt it. Ibid., IV, 69.

1. Ibid., I, 522.

2. Ibid., I, 491-92; Flick, Am. Rev., p. 81; Spaulding, op. cit., pp. 94, 95; Flick, Hist. N.Y., IV, 165; Menaghan, op. cit., p. 97; Pellew, op. cit., pp. 74-75; Jay, op. cit., I, 68; Nevins, op. cit., p. 160; Becker, op. cit., p. 275; Elisha P. Douglass, Rebels and Democrats, p. 62.

3. Sparks, Morris, I, 120. Spaulding in Flick, Hist. N.Y., IV, 156, thought it likely that political differences delayed the drafting.

Documentation does exist to support Sparks's interpretation. As he pointed out, Jay was a proponent of this attitude:

The difficulty of getting any government at all you know has long been an apprehension of little influence on my mind; and always appeared to be founded less in fact, than in a design of quickening the pace of the House... the birth of the constitution was in my judgment premature....¹

The sharp political conflict in Pennsylvania where the radicals had been instrumental in establishing a constitution in 1776 stimulated edifying comments among New Yorkers. Responding to Duer's description of the conservative defeat in Pennsylvania, Livingston observed:

You know that nothing but well timed delays, indefatigable industry, and a minute attention to every favourable circumstance could have prevented our being exactly in their situation.²

The New York conservatives, fearing radical triumph in an immediate debate on a constitution, drew deeply and successfully on their political experience to avert a reversal.

Writers have cast little light upon the constitutional ideas prevalent either among the populace or among the Convention members.

1. Jay to Morris and Livingston, 29 April 1777, Sparks, Morris, I, 126-27; Johnston, op. cit., I, 135. Abraham Yates, Jr., writing under the pseudonym "Rough Hwer" in 1788, said of the drafting committee: "A diversity of opinion soon took place in this Committee; not whether the government should be of the republican form partaking of monarchy, aristocracy and democracy; but what proportion of ingredients out of each should make up the compound." Yates Papers, NYPL. See also Duer to Schuyler, 19 June 1777 and Duane to Schuyler, 19 June 1777, Schuyler Papers, NYPL; Egbert Benson to Livingston, 3 December 1777, R.R. Livingston Collection, NYHS.

2. Duer to Livingston, 28 May 1777, Livingston to Duer, 12 June 1777, ibid. See also Philip Livingston, Duane and Duer to President of New York Convention, 29 April 1777, Jour. Prov. Cong., II, 428.

Fortunately, the committee drafts are not the sole evidence of contemporary thought on the subject. While the press furnishes suggestive material as indicative of political currents, hints have survived elsewhere as to the attitudes of the delegates.

Some of the contributors to the newspapers stressed the need to break with tradition, to build "a new form of government...without destroying private property."¹ "Spartanus" would have dispensed with the colonial legislature in favor of a unicameral assembly, holding up² the Roman Republic as the proof of bicameralism's fatal weakness. The legislature would exercise executive power also and during its recess would transfer this authority to a legislative committee. The house would choose provincial officials but the people would elect local officials. In the former category were the provincial secretary, treasurer, attorney-general, judges of the supreme court; in the latter were the county judges, justices of the peace, sheriffs and other officials and all town officials. The people would vote annually for assemblymen and magistrates. The county election districts were to give way to small, equal election districts.³ Although "Spartanus" did not discuss the suffrage qualifications, "Essex" would broaden the voting base by granting the right to landholders owning realty valued at £40, to £40 leaseholders and renters, to those having personalty of

1. "The Interest of America," Letter II by "Spartanus," N.Y.J., 13 June 1776.

2. The conflict between patricians and plebeians destroyed the Roman Republic "Spartanus" asserted. Ibid.

3. Letter III, ibid., 20 June 1776.

40 and to widows paying taxes on property in one of the foregoing classifications. Those unenfranchised by these regulations would not¹ pay taxes for the support of the legislature.

Other commentators adhered to the customary forms of governor; council, and lower house. One writer suggested Connecticut's government as a model for the distribution of powers and for election re-²quirements. Another, "Independent Whig," would have the council chosen by the house for three-year terms. He expressed uncertainty as to who was to elect the governor, first placing that power in the hands of the legislature, but then offering it to the people at large. Both governor and house were to be selected annually by ballot. His prescription for the suffrage was vague, "sufficient property to connect him [i.e., the voter] with the community," but the ballot was to be a written one. Keeping the British system in mind, he ruled out dual-office holding ("places of profit should be few, and profits of places should be small...."). Furthermore, the governor and council³ would not have the authority to suspend laws.

Writers on the religious question proposed freedom of conscience except for atheists. Every sect would have to finance itself by voluntary contributions. Although "Independent Whig" conceded that the

1. Ibid., 7 March, 14 April 1776. He proposed also that the people elect the Continental Congress delegates.

2. Anon., "To the Freeborn Sons of America," N.Y.P., 21 March 1776. He proposed popular election of local officials in order to "shut the door against the mean, wicked arts of bribery and corruption."

3. "Independent Whig," N.Y.J., 29 February 1776.

majority might enforce the sabbath as a sacred day, prohibiting business and pleasure, he discountenanced compulsory public worship. The use of force to win converts, he wrote, is not tolerable. The only method to resort to is the employment of "good sense, rational and scriptural arguments." In this fashion we would not give people cause to look to the British for religious protection and would attract Catholics to the defense of American liberty.¹

In a number of respects, where comparison with the committee drafts is possible, these ideas are more radical than the committee's. Whereas the latter conceived of a governor chosen by the £40 freeholders for a four-year term, the former proposed a governor chosen annually by all voters.² The committee first favored an upper house elected for four years by the £40 freeholders to operate as a check on the lower house, but some of the newspaper partisans simply dispensed with an upper house.³ In the committee drafts the governor and legislature absorbed the appointive powers of the crown, but the pamphleteers urged the popular election of all county and town officials.⁴ Lastly, the committee adopted the existing practice of legislative appointment of delegates to the Continental Congress, whereas the press argued for the right of the people to choose them.⁵ However, they held at least

1. "Independent Whig," no. 3, ibid., 14 March 1776; anon., N.Y.P., 15 August 1776.

2. In the last two drafts, B and Jay's, the committee raised the qualification to £100. Lincoln, Const. Hist., I, 524-25.

3. The last drafts raised the estate to £100. Ibid., I, 516.

4. Ibid., I, 531-32, 535, 536.

5. Ibid., I, 536-37.

three concepts in common, religious freedom, ballot voting, and equal representation in the assembly.¹ On one very important issue, the franchise, the committee assumed a more radical position than the press, permitting those paying state or county taxes to vote for assemblymen.²

Since the preparation of a constitution was a fundamental task of the Convention, the deputies engaged in extensive private discussion of the content to adopt. Evidence of this attention appears in the circulation among the members of no less than three plans unrelated to the committee's draft. Peter R. Livingston sent one of them to loyalist William Smith for his comments. Happily, Smith copied it into his Memoirs.³ Consisting of sixteen brief paragraphs, this constitution represented a radical point of view. A council and house of deputies would share legislative authority, elected annually without regard to property by ballot by all taxpayers. The councillors would have executive functions also, which they exercised with a president. The latter officer, chosen by ballot out of the legislature in joint meeting, served three years. The executive branch enjoyed no veto on laws. It did not possess, furthermore, much appointive power, unlike the colonial executive. The assembly would name all state officials to hold office during good behavior. Their constituents would elect

1. Ibid., I, 506, 507-12, 541.

2. Ibid., I, 514.

3. Dillon, op. cit., p. 145; Smith, Memoirs, V, 14 October 1776, Smith Papers, NYPL.

triennially all county and local officials. Even when this plan did award appointive authority to the executive, it did so in very restricted fashion. The assembly would recommend to the president and council the appointment of military officers. The president would combine the duties of commander-in-chief, chancellor and ordinary. By prohibiting assemblymen from holding salaried offices, this plan preserved the assembly's independence. Finally, the people would elect the representatives to the Continental Congress.¹ No wonder Smith "reprobated" the whole document, complaining to Livingston:

The new Government will be intirely in the Hands of the Peasantry and the commercial Interests of the Capital derive no Safety from the petty Privilege of two members in the Council.²

The conservatives, too, entered the contest for the deputies' votes and briefly sketched the main outline of a constitution. The author of this draft simply modified the colonial establishment to fit an independent state. Governor, council and assembly would have the

1. Ibid.

2. He sent P.R. Livingston his detailed objections to the draft, objections which could not fail to arouse misgivings amongst the great landholders. For example, on the question of the franchise, he wrote: "It is dangerous to Society to admit Persons with very small Property to participate in your Councils. The richest Member of the Community under a Government elective, annually elective and that too by Ballot is put upon the same Term with one who has scarce a Farthing to lose. What Security from such a Legislature against an agrarian law and all sorts of Rapine and Plunder! If every individual Legislator is not opulent, yet certainly they ought in general to be above the Temptations of Indigence. The Poor being the Majority ought not to refuse a Security to others against the Spoil of their Property. They lose Nothing by being obliged to elect Men of Substance attached to the Territory." Ibid.

same powers each possessed under British rule. Contrary to past practice the people would elect assemblymen annually by ballot, but only freeholders might vote. Members of the assembly could not serve in any other office. The assembly would select others or out of itself a council of twenty to hold office during good behavior. Council eligibility depended upon the ownership of lands worth £10,000. The plan required the assembly to meet at least once a year, but the governor could not adjourn, prorogue or dissolve it without the council's advice. Carrying the principle of indirect election further, the draft prescribed the choice of the governor from the councillors for a¹ three-year term by joint legislative ballot.

Publication of this conservative plan of government provoked a direct rejoinder to it. This alternative would enfranchise all taxpayers and permit them to be candidates for any office. The government would consist of an assembly of one hundred, a council of twenty, a president and council of safety. The first two bodies constituted

1. This draft and the following one seem to be the products of the Suffolk County delegation who divided sharply in their views. The conservative plan specified "Barons of Exchequer" among the judges to be created, but the other draft rejected any "Barons." Although neither outline bears a date, it is likely that they were written in 1776, probably between July and October. The production of a committee first draft in the latter month renders any later date unlikely. Cal. Hist. Mss., II, 117-18.

Robert Yates, twelve years after the event, declared that some delegates circulated this draft "to try...the temper" of the members. It provoked a sharp off-the-floor debate, particularly over the suffrage qualifications. Yates affirmed that general agreement existed on the desirability of enfranchising the "middling" class, since rights and liberties were endangered by the two extremes, rich and poor. "Sydney," N.Y.J., 13 June 1788; Ford, Essays, pp. 297-314.

the legislature, the latter two the executive which lacked any legislative authority. All voters would choose the legislature by ballot. Although the president and council of safety might convene the legislative houses on special occasions, the former could never dissolve the legislature. Otherwise, the legislators themselves controlled their meetings. The people would elect the executive council yearly in the same fashion as the legislature, but the two houses would select the president annually by joint ballot out of the council of safety.¹

Although there is a broad gulf between the conservative and radical concepts of fundamental law, there are a few places where they coincide. These -- ballot voting, annual assembly elections, elimination of placemen from the assembly -- derive from their colonial experience. It is clear from the preceding information that the radicals among the Convention deputies not only had concrete proposals, but also had evolved a coherent, general draft.

Although few of the radical ideas won acceptance in committee, an examination of the generally analogous concepts in the drafts will clarify the extent of the radical influence. The chronological order of the four drafts is A, C, B and Jay's. Draft A, and probably C, stipulated semi-annual meetings of the legislature, but B and Jay's² lengthened the interval to one year. All versions adopted annual

1. Cal. Hist. Mss., II, 117-18.

2. Lincoln, Const. Hist., I, 501; Jour. Prov. Cong., I, 834. Since the first four articles are missing from draft C, their substance is guesswork. However, the content of the succeeding articles in most cases does not differ radically from draft A. Min. of Conv., Yates Papers, NYPL.

assembly elections, and A went so far as to authorize carving the counties into assembly districts. Since someone challenged this unorthodox step, the committee struck it out, adhering to the traditional county-at-large method.¹ Although the committee elaborated a detailed procedure for the employment of written ballots which it retained through the first three revisions, Jay cut off everything after² the opening paragraph, retaining only the principle. On the crucial issue of the electorate's nature, A and C set forth the payment of both state and county taxes as the prerequisite for assembly voting rights. The committee broadened the electoral base further in the last two revisions, extending the ballot to those who paid either

1. Lincoln, Const. Hist., I, 505-06; Jour. Prov. Cong., I, 834, 842, 884. Since A and B were practically identical, it is unlikely that C differed essentially.

2. Lincoln, Const. Hist., I, 507-12; Min. of Conv., pp. 11-17, Yates Papers, NYPL; see above p. 199 n. 5, and p. 203 n. 1. Robert Yates advanced an interesting hypothesis for the popularity of the secret ballot. Its origins arose out of the political battles prior to 1775 when both DeLanceyites and Livingstons expected that eventually the British would convert the governor's council into an hereditary house of lords. Therefore, election victory became mandatory, if the anti-DeLancey faction were to share in the spoils. The latter despaired of winning because the practice of voice voting enabled the DeLanceyites to pressure their tenants to cast their votes for them. The secret ballot was thus envisaged as the key to success and the "outs" worked assiduously just prior to 1775 to win adherents to the idea of ballot reform. It was this opinion which forced the inclusion of the written ballot in the draft constitution. As to the reasons for its deletion on the floor of the Convention, Yates is disingenuous. He suggested that either the proviso was too lengthy, or the elimination of the Tories as a political faction made it unnecessary. Of course, had there been no political differences among the Whigs, it might have been deemed superfluous, but as Yates, a member of the drafting committee, well knew, the differences were many. "Sydney," N.Y.J., 13 June 1788; Ford, Essays, loc. cit.

state or county taxes. All four drafts confined candidacy to free-
¹
 holders.

Unlike the radical view, the committee envisaged the senate as a check for the great landowners on the popular assembly. As first conceived in A and C article IX conferred the senatorial ballot on the 140 freeholders, but the conservatives narrowed this right in B and Jay's draft to the 100 freeholders. They opened candidacy, however,
²
 to all freeholders. Unanimity prevailed in the drafts on the four-year term of office, but on the matter of the number of seats there were disagreements that had their origin in dissimilar means of election. In its initial version, the committee grouped the counties into four roughly equal districts, each district having four senators. Dissatisfied with this solution, the members discarded it in favor of an indirect choice. Increasing the number of seats to twenty-four, the new provision directed the selection by county of electors who chose the senators. Still not content with this device, the committee retraced its steps in the last two revisions to the principle of direct voting as in A, but did not adopt the latter's distribution of seats. Carrying over the additional six members from C, the committee redis-
³
 tributed the twenty-four senators unequally among four districts.

1. Lincoln, Const. Hist., I, 505, 507, 514; Min. of Conv., p. 17, Yates Papers, NYPL; Jour. Prov. Cong., I, 836, 843, 867.

2. Lincoln, Const. Hist., I, 516; Min. of Conv., p. 18, Yates Papers, NYPL; Jour. Prov. Cong., I, 843.

3. Lincoln, Const. Hist., I, 517-21; Min. of Conv., pp. 18, 22-25, Yates Papers, NYPL; Jour. Prov. Cong., I, 843.

The striking fact about the governor is his weakness, a conspicuous contrast with the colonial governors. All the drafts specifically confined legislative power to the senate and assembly, excluding the governor from any voice in legislation. The suffrage restrictions for senator in A and C, both as to voting and candidacy, became valid for the governorship. When the committee revised upward the property requirements for senator in the B and Jay drafts, they applied the new¹ yardstick also to the chief magistrate. The nominal parallel between governor and senator extended in all copies to the term of office, four years. Although A and C did not confer prorogation powers on the governor, the later revisions invested him with authority to pro-²rogue the legislature not more than sixty days in one year. As a further limitation on his executive power A and C established a council of state to assist the governor in the administration of the state. The council of state was to consist of five freeholders chosen for five-year terms by joint ballot of the legislature. When the com-³mittee revised C, they accepted the new organ, but then struck it out. The earlier versions distributed the appointive power between the legislature and the governor and council. Although the governor could only nominate civil officers to the legislature, he could appoint military

1. Lincoln, Const. Hist., I, 501, 525; Min. of Conv., p. 19, Yates Papers, NYPL; Jour. Prov. Cong., I, 834, 870, 871.

2. Lincoln, Const. Hist., I, 525; Min. of Conv., p. 19, Yates Papers; Jour. Prov. Cong., I, 870, 871.

3. Lincoln, Const. Hist., I, 525, 528; Min. of Conv., pp. 21-22, Yates Papers.

officers with the advice and consent of the council of state. With the deletion of the latter body from the B and Jay drafts, the governor¹ held the sole exercise of military appointment. A major exception to the governor's appointive authority was the state treasurer. Under the provisions of drafts A and C the assembly chose the treasurer by ballot. He remained in office "during their will and pleasure." In the succeeding revision the committee modified this method so that the assembly nominated the treasurer and appointment was by act of the² legislature.

In most of the examples cited above the committee adopted a more conservative position. A major exception was the shift to indirect election of senators which it dropped ultimately. Since the committee had boosted the voting qualification for senator from the £40 to the £100 freeholder, it did not need further restrictions.

Although the committee in later drafts had revised key sections to check popular influence in the government, the Convention modified some clauses further. The deputies basically altered the provisions relating to the qualifications of the assembly electors and voting procedures. Under the new requirements three classes of voters emerged. First, the voter must possess a freehold valued at £20 above and beyond all debts thereon. Or, second, he must rent land

1. Lincoln, Const. Hist., I, 531-32, 535-36; Min. of Conv., pp. 25-26, Yates Papers; Jour. Prov. Cong., I, 873, 874, 877, 882.

2. Lincoln, Const. Hist., I, 531; Min. of Conv., pp. 20, 25, Yates Papers; Jour. Prov. Cong., I, 871.

whose annual value is at least 40s. Or, third, he must be a freeman of Albany or have obtained freemanship in New York City on or before 14 October 1775. Having reduced the number of electors, the Convention went on to circumscribe the exercise of the suffrage. The first amendment on voting that the Convention approved dropped the secret ballot for the colonial voice vote. Upon second thought, the deputies provided for a trial of the written ballot after the war. The experiment would govern assembly elections only, but the legislature might revoke it by a two-thirds vote.

The Convention did not deem it necessary to restrict further either senatorial or gubernatorial suffrage. It did shorten, however, the governor's term from four years to three. On the other hand, the more conservative members pushed through amendments which strengthened the governor's powers. Whereas the Jay draft had practically excluded the governor from the appointment power, the Convention relented and created a council of appointment which consisted of the governor and four senators, but in which the governor could only cast a tie-breaking vote. The governor might fill positions "with the advice and consent" of the council. In a second major respect, the Convention reversed its committee and granted the governor a voice in legislation. It did not clothe him with an absolute veto, but established a council of revision which consisted of the governor, chancellor and judges of the supreme court. The governor had a full vote in this body which decided on a veto by majority vote. The legislature might override

1. Lincoln, Const. Hist., I, 512-15.

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the council's veto by a two-thirds vote of those present. These changes obviously represented a compromise between the group who desired a strong legislature and a weak governor and those who aimed at a strong executive.

Although the conservatives cast their lot with the other independent states in July, 1776, they were not eager to carry out the people's mandate to formulate a new basis of government. Having control of the revolutionary committee machinery, they did not wish to imperil their leadership by engaging in a battle of political ideas, except on their own terms. Exercising their political and social influence, they campaigned tirelessly and successfully to delay Convention action on a constitution. Notwithstanding the articulateness of radical opinion in and out of the Convention, the radicals lacked both the organization and prestige necessary to triumph in the house. In the hands of the committee the draft went through five versions and as presented to the Convention in March, 1777 would have introduced

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significant democratic reforms.

1. Ibid., I, 526, 529, 532-34; Jour. Prov. Cong., I, 894, 896.

2. John Adams thought his letter to Wythe on Virginia's constitution influenced the Yorkers. Adams to Jefferson, 17 September 1823, quoted in Flick, Hist. N.Y., IV, 156; Charles F. Adams, ed., Works of John Adams, X, 410.

CHAPTER VII

CONCLUSION

Although the British ministry at the opening of 1775 might have looked with equanimity upon the political situation in New York, subsequent events would have shattered that equanimity. Two positive factors for the North government were the colonial administrative machinery which pervaded the province and the firm adherence to the administration of the most powerful political faction. Attentiveness, however, to the clash over the cargo of the James in February and to Sears's successful flaunting of authority in April should have awakened misgivings in the official mind, especially since these reverses contrasted sharply with the government's victory in the preceding December in the affair of the Lady Gage arms shipment. The inception of revolutionary government in the city, then, came as a logical consequence of heightening opposition to the crown. Tacitly acknowledging their loss of public confidence, Colden and his council deliberated upon the use of force. But the British garrison numbered only 100 and the city's militia was mostly Liberty Boys. Reduced to impotence, officialdom could do nothing but stand aside and watch the Committee of Sixty govern the city.

Although the preceding events occurred in New York City, affairs elsewhere in the province afforded small comfort to the royal government. Even the colonial assembly seemed likely to vote against the adminis-

tration in early 1775 and the Tories won the day only by proposing another petition of grievances to Britain and probably by exerting pressure on the members to vote with the DeLanceyites. Among other measures the assembly declined to send a deputation to the Second Continental Congress and thus compelled the Whigs to organize the election in March of a provincial convention which would select delegates for the Congress. Having specific orders from Lord Dartmouth to forbid the people to send representatives to Philadelphia, Colden and the council conferred on the advisability of promulgating a proclamation on the subject. They decided against it on the ground that it would consolidate opinion in support of the revolutionaries. If the countryside opposed the Whigs, the government might have used the local police power to prevent the illegal elections. Obviously the administration had no such faith. When the Tories sought to marshal their forces into loyal associations, they failed. By the end of 1775 Governor Tryon admitted that only 6,000 British regulars and three or four regiments of loyalists could restore his authority in the province.

If bearing arms is an indication of political attachment, then the computation of men serving in both armies re-enforces the preceding interpretation. Those who served in the Revolutionary Army, regardless of the brevity of that service, numbered perhaps 36,000 whereas the loyalists contributed perhaps 16,000. The latter figure is subject to revision downward, since many of the New York loyalist corps contained men from other colonies, Nova Scotia, Canada and Scotland. Another unknown quantity which also would decrease the loyalist total is the number of Americans who enlisted under British

compulsion. Both Howe and Burgoyne complained of the lack of Tory recruits for their armies, and even the redoubtable Galloway granted that the New York loyalists could not stand without the protection of the British Army.

When the prospect of conciliation grew more improbable in the latter half of 1775, the First Provincial Congress wavered uncertainly in measures of resistance to the crown. Debate was being superseded by war and the congressmen had not decided yet whether they were willing to pay the price for life, liberty and property. Dread of the penalty for unsuccessful rebellion made them timid and induced them to resort to half-hearted policies which encouraged the Tories. The ultimate conclusion of this indecision was the dissolution of the Congress without formal adjournment and without the choice of a committee of safety to manage affairs until the Second Congress should convene.

Since only ten of the fourteen counties elected deputies for the Second Provincial Congress, some historians have said that this was a time of loyalist reaction. When one takes into account the isolation of the countryside, communication uncertainties, the Vermont controversy, and factionalism in Cumberland and Charlotte Counties, it is apparent that these factors rather than loyalism blocked elections. Furthermore, both counties did eventually send representatives to Congress. Queens and Richmond Counties fell into the loyalist camp, but this did not represent an abrupt change of face since both had been centers of toryism. These elections at the close of 1775 do not furnish any evidence of a general revulsion

against the Whigs.

If a swing of opinion to the Tories had occurred, the Smiths' efforts to detach New York from the confederation in December, 1775 might very well have succeeded. Thomas Smith might have found a majority for his conciliatory propositions and the cautious Second Congress would not have had the determination to defy public opinion. Since the contrary was the case, Smith might have carried the day if his resolves had not conveyed the impression of rendering the British view of the colonial controversy. The mistake proved fatal to the whole enterprise which suffered a resounding defeat. As a last resort William Smith prevailed upon Governor Tryon to dissolve the colonial assembly and prescribe a polling date for a new house, hoping to obtain a pliant membership which would condemn the Congresses and adopt "overtures for the restoration of harmony." The Whigs accepted the challenge and plunged into an energetic campaign to win the day. Under the conditions of conservative suffrage requirements the Whigs overwhelmed the opposition, handing the Tories a decisive defeat. Although the returns were incomplete with perhaps six seats unaccounted for, the Tories could only claim four as against the Whigs' twenty-four. Before the election, news arrived of the British plan to crush the rebellion by arms in the spring, news which inflamed the province. Tryon and his council were unanimous in conceding the hopelessness of their position and agreed not to permit the assembly to meet unless more favorable word came from Britain to mollify the populace. The new assembly never met and the Tories had lost another battle.

Far from being a period of loyalist reaction, the months under discussion witnessed the hardening of opposition to the British and the completion of revolutionary organization on the local level. None of the transactions of the Provincial Congress brought the province closer to submission to the crown. On the contrary, the halting steps of the Congress carried the people farther down the road to revolution.

The unrelenting Whig press campaign ultimately affected the wavering Provincial Congress. On through the winter and into the spring of 1776 the Whigs continued their propaganda offensive. This spirit infected the moderate Whigs in the Second Provincial Congress to some degree and the Congress adopted more vigorous policies. Although it would not interdict communication with the British ships in the harbor until Washington demanded it, the Congress did prepare an armed vessel to defend the trade lanes between Sandy Hook and the Delaware River. Moreover, the house set in motion a general anti-Tory policy which empowered the district committees to call out the militia to aid them in disarming the disaffected.

Although there had been considerable discussion in the newspapers on the question of the formation of a new government on a permanent basis, the conservatives and moderates in Congress avoided any deliberation on the topic. The Continental Congress, however, precipitated the subject onto the floor of the Third Provincial Congress in May by recommending that all the colonies make provision for stable government. The members split on the question of procedure, but basic to procedure was the element of timing. Those who favored

delay supported Gouverneur Morris's proposal for a constitutional convention; those who desired early action backed John Morin Scott's argument that the existing Congress could draft the constitution. Since the Third Congress wished to frame the new government the members modified Morris's plan to call for new authority from the electorate to permit Congress to be the architect of the new law. Despite the ambiguity of the resolves calling the election in June, the people seem to have assumed that a constitution would be forthcoming when the Fourth Provincial Congress assembled in July.

Closely linked with the question of a constitution was the problem of independence. Letters appearing in the press from January through June indicate that public opinion led the members of Congress in desiring the final break with Britain. By a series of evasions in May and June Congress avoided committing itself, even though at one point it violated its own rules of procedure. Had not most of the city's population migrated, the radicals might have brought popular pressure to bear on the Congress. Notwithstanding congressional reluctance, some of the people in Albany County took matters into their own hands and voted for independence in June.

In any social upheaval as complex as a revolution, the elements conducive to disruption cannot be reduced to any simple all-embracing formula. Similarly, the hesitation of the Whig leaders of New York cannot be ascribed to any single factor. Rather it was the operation of several influences which produced the "trimming" policies associated with the New Yorkers. Tradition and past ties with Britain exerted a braking influence. There was apprehension over the cost of

independence in blood and treasure. There was uncertainty about internal political stability. There was fear, too, fear of defeat and of the customary punishment for treason. Since the colony might be invaded simultaneously from the south and north, the Whig moderates and conservatives felt no over-powering urge to place the noose around their own necks.

As the directing center of the revolutionary movement the Provincial Congress tackled a variety of problems. The manner in which it dealt with some of these problems characterized its conduct until the Declaration of Independence. In crucial matters, such as raising the line regiments and organizing the militia, the Congress delayed through most of 1775. Although Congress set up the militia establishment in August, defects in training procedures and the election of officers caused the house to amend it in December, 1775.

If raising troops presented difficulties for Congress, these problems were insignificant when compared with those involving the supplying and equipping of the army. To meet the exigencies of supply, Congress ultimately appointed three officials, a commissary, a clothier and a commissary for military stores. These men employed numerous assistants to carry out their responsibilities. One of the complicating factors was the need to import practically all key items with the exception of food. In addition to confusion and waste, the government suffered from an inadequate transportation system and skyrocketing prices.

When the deputies debated the means of financing the revolutionary resistance, they chose paper money. Recourse to taxation almost carried

the day, but disagreements over each county's share of the burden blocked the adoption of this alternative. McDougall declared that the landholders wanted to saddle New York City with one-third of the taxes, and he would have none of it. Turning from taxation, the Congress voted to issue bills of credit, some £300,000 in two years. In addition the Continental Congress sent New York large quantities of Continental paper.

In its efforts to contain the Tories, the Congress employed specific committees of its members to arrest, try and sentence offenders. However, this delegation of powers did not prevent the house from also hearing complaints and sentencing Tory prisoners. Whenever the occasion demanded, the committees called upon Continental troops, the militia or special ranger companies to do their bidding. The spreading Tory activity in September, 1776 compelled the Convention to create a standing committee for "detecting and defeating conspiracies." During its existence of four months, this committee presided over 500 or more cases. Even this measure did not suffice, and in February, 1777 the Convention replaced the committee with a commission of three non-legislators. The commission functioned until 1778. These blows at the Tories eventually paved the way for the confiscation of Tory property. Although sales of loyalist personalty commenced in February, 1777, the Convention refrained from disposing of the realty, and passed the problem on to the first legislature under the new constitution.

Although New York's delegates in the Continental Congress spoke against immediate independence, the Fourth Provincial Congress

promptly ratified the momentous Declaration and transformed itself into a dual legislature and constitutional convention. In their latter capacity the deputies progressed at a snail's pace, not producing a working document until October. Two months later the governmental committee completed a full draft, but did not report it to the house. The committee revised it three more times before submitting it to the Convention in March.

The eight months delay stirred up discontent and apprehension. Notwithstanding the urgencies of conducting a war, there can be little doubt that political differences were mainly responsible for the protracted labors of the committee. In the main, the conservatives worked most consistently to obstruct rapid accomplishment because they feared radical reformism would carry away the Convention. Possessed of astuteness and perception, they toiled ardously and successfully to prevent a radical victory. The radicals failed to win even a bill of rights which had seemed to be within their grasp in July, 1776.

The newspapers devoted many columns of space to the problem of government which reflected the long-felt desire for basic political change. Included among the reforms were extension of the suffrage, use of the secret ballot, elimination of dual office-holding, annual elections, lower property qualifications for candidacy, abolition of the governor's veto, separation of church and state. If the Convention had adopted all these ideas, the state would have taken a long stride along the road to democracy, but the conservative influence was too strong to permit it.

At the outset the December draft inaugurated several major improvements, but in the process of revision the committee modified them. Four provisions remained unaltered: annual assembly elections, secret balloting, no placement in the legislature and no veto power for the governor. Those paying state and county taxes won the right to vote in assembly elections, but the committee revised this clause to extend it to those paying either tax. On the other hand, the committee raised the qualification for the senatorial and gubernatorial elections from a \$40 freehold to a \$100 freehold. In the earlier drafts the assembly possessed sole power to choose the treasurer, but the committee modified the section so that the assembly shared the authority with the senate. The later versions sought to increase the governor's powers, but he was to be a weak executive. At most he could nominate civil officials to the legislature and at one point the committee prepared to limit this right by creating a council of state to assist him. In two points the committee strengthened the executive. They granted him the right to prorogue the legislature for a maximum of sixty days a year and to appoint military officials. Most of the more radical innovations did not survive the onslaught from the floor. The Convention presented the people with a revolutionary constitution, albeit a conservative one.

The success of the conservatives in the New York Convention strikingly contrasts with the failure of the conservatives in Pennsylvania. One of the reasons for the radical victory in that state was the loyalist influence among the conservatives who thereby lost

their influence in the revolutionary organizations. The ability of the New Yorkers to move flexibly with the pressure for a new government and independence contributed greatly to the conservative triumph.

The past view that a Tory preponderance profoundly affected New York's approach to independence is no longer valid, but it is true that the colony's cautious movement differentiated it from many other colonies.

Despite the large number of Tories in the province, the Whigs won the allegiance of a majority of the people. It was this popular backing that enabled the revolutionaries to construct a movement which carried the colony down the road to statehood. Although the leadership faltered from time-to-time, it received strong popular support.

APPENDIX

The following examples of inaccurate or uncritical use of materials by Flick in his Loyalism in New York during the American Revolution suggest that a new look at the New York loyalist problem might produce interesting material.

One of Flick's sources, loyalist historian Thomas Jones wrote that the British formed a New York City militia organization in 1779 of 6,000 men. All of these males, he said, were inhabitants of the city prior to the British occupation. A little arithmetic will demonstrate the unreliability of the latter statement. If 6,000 men ages 16 to 50 lived in the city, the city's population would be ca. 30,000. Therefore, the city's populace would be all Tories. Since thousands, a majority, did not return after the American defeat in 1776, the 5,000 militia could not be original inhabitants. Sir Henry Clinton explained that many of the militia were "persons attached to the different army and navy departments consisting of sailors, watermen and others."¹

According to Flick, "a large part of the 6,000 seamen in the metropolis were loyalists." The figure derives from one of Tryon's letters, but the governor noted that they were not all Yorkers. He stated that 6,000 men, partly from New York, composed of landmen and seamen, partly

1. Jones, op. cit., I, 322-23; Clinton, Am. Rebellion, p. 455.

drawn to the colony from the several provinces, had filled the crews¹ of the royal ships.

In July, 1776 Tryon allegedly began to enlist 1,300 men on Long Island and Staten Island. The source of this fact is the unsupported statement of an inhabitant who did not reveal how he acquired this information. Moreover, the informant in no way indicated how many actually enlisted. Howe remarked to Germain that the governor participated in the Battle of Long Island in August with two companies of New York loyalists. The maximum² strength of the company was 57.

When Governor Tryon raided Danbury, Connecticut in 1777, his force supposedly comprised 2,000 Long Islanders. Jones, Flick's source simply stated the raiders numbered 2,000 without identifying them. As it happened, all units were regular British Army corps;³ no loyalists participated.

Although Flick quotes in part a Tryon County Committee letter to show that half the county is Tory, the implication is not accurate. The Tryon Committee declared that half the people would not bear arms to defend the county against a British invasion because the state had neglected to send troops to aid them. Believing themselves

1. Flick, Loyalism, p. 107; Tryon to Vice-Admiral Arbuthnot, 29 June 1779, NYCD, VIII, 772.

2. Flick, Loyalism, p. 105; Force, op. cit., 5th Ser., I, 120; Howe, Corr., p. 342.

3. Flick, Loyalism, p. 105; Jones, op. cit., I, 177-78; Howe, Corr., p. 391; Serle to Dartmouth, 1 May 177, Stevens, op. cit., XXIV, no. 2059.

abandoned by the state to the enemy, half the people were unwilling to sacrifice themselves, their families and their property in vain and so would surrender. This can hardly be termed Toryism. In fact when St. Leger did invade the county in 1777, 700-1,000 men sprang to arms and their determined resistance at Oriskany and Fort Schuyler¹ blocked a union with Burgoyne.

In 1779 William Axtell obtained a commission to recruit 500 loyalists, but this does not prove he did so. Jones, the source, notes that Axtell raised only 30 men, but drew pay and provisions for the 500.²

Since Long Island, excluding Suffolk, was a Tory stronghold, there are numerous references to the enlistment of loyalists from the area. When added up, the result is curious. Omitting all numbers which do not give a specific county of origin, the total for Kings and Queens is 3,600. The 1771 census credited the two counties with 11,205 or ca. 7 percent of the colony's total. If we allow for a 1776 population of 208,000, the two counties with 7 percent would have 14,560. The 16-50 age group would number perhaps 3,640 men. We are led to believe, therefore, that the British recruited almost every male in this age bracket into their active units, leaving no militia. Difficult as this may be to accept, it becomes impossible when we consider that Flick also states one-fifth of the Queens militia was Whig. And what about the Kings militia? Small

1. Flick, Loyalism, p. 110; Tryon Committee letter in Jones, op. cit., I, 700-701.

2. Flick, Loyalism, p. 112; Jones, op. cit., I, 304-305.

as it was, there was more Whig sentiment in the latter county than in Queens. General Sir Henry Clinton doubted the loyalty of "a¹ great part" of the Kings inhabitants.

Another example of New York's loyalism was the DeLancey brigade which was to have 1,500 men from Kings and Queens. Jones was careful to say only that DeLancey held a commission to raise 1,500. The difference was important, since Howe cited the brigade's strength at 693 in November, 1777 and 707 in May, 1778. The unit records show that ca. 1,095 officers and men served in the brigade,² but not all of them were New Yorkers.

In a vein similar to his comment on Tryon County, Flick tagged Lewis Morris's militia regiment as overwhelmingly loyalist, as having only a "colonel's command" of Whigs in it. This is a misconception of what Morris wrote to the New York Convention. After the American defeat in Manhattan, Morris stated that "not more than a Colonel's command was left" in his Westchester regiment. But this letter was part of a sorry affair which has to be seen in its entirety in order to evaluate Morris's judgment of his regiment. The Convention had called upon Morris to explain his desertion of his command and flight to Philadelphia. As justification he alleged the units decimation and the disaffection of many of the survivors. The Convention rejected his defense; indeed Morris had refuted himself

1. Flick, Loyalism, pp. 95-112; Clinton, Am. Rebellion, p. 69.

2. Flick, Loyalism, p. 105; Jones, op. cit., I, 264-65; Howe, Narrative, p. 52; Raymond "Loyalists," II, 220; Eaton, op. cit., p. 174.

in his correspondence. When the Convention ordered his regiment on active service in August, Morris informed Abraham Yates, Jr. that the men reported with "cheerfulness," a most un-Torylike characteristic in this connection. In other areas Tories refused to serve when called up for duty. In a private exchange R. R. Livingston and Edward Rutledge bluntly attributed Morris's action to fear, not to loyalists. Morris's assessment of political loyalties then is¹ highly suspect, since it directly involved his own reputation.

Referring to one of Governor Tryon's letters, Flick comments that Tryon believed the whole province would take up arms for the crown if the British drove out the rebel army. The letter itself does not bear out this interpretation. The governor described a sortie with 1,000 men into Suffolk in the course of which the people dutifully dissolved their committees and repudiated the resolves of the congresses. He then went on to declare that he thought the whole province would do likewise when the British would destroy the rebel army. Be it noted that both Howe and rebel John Sloss Hobart attributed the submission to compulsion. We may leave this aside, however. For a defenseless people to dissolve revolutionary committees under the menace of 20,000 to 30,000 guns of an army of occupation is not to be equated with voluntarily shouldering arms to defend king and parliament.²

1. Flick, Loyalism, pp. 108-109; Force, op. cit., 5th Ser., III, 211; Jour. Prov. Cong., I, 666, II, 281; Livingston to Rutledge, 10 October 1776, Rutledge to Livingston, 19 October 1776, Bancroft Transcripts; Livingston Papers, NYPL.

2. Flick, Loyalism, p. 100; Tryon to Germain, 28 November 1776, NYCD, VIII, 692; Hobart to Convention, 7 October 1776, Jour. Prov. Cong., I, 671; Howe, Narrative, p. 44.

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